

## Council Communication

Department: Legal	Resolution No. <u>10-35</u>	Council Action: <u>1/25/2010</u>
Case/Project No.		
<b>Subject/Title</b>		
Resolution authorizing the Mayor to execute the Order Accepting the Acknowledgement/Settlement Agreement from Atherton Automotive Service, 2900 West Broadway, Council Bluffs, Iowa, for a violation of the State's tobacco laws.		

<b>Background/Discussion</b>
On or about November 12, 2009, compliance checks by the Council Bluffs Police Department resulted in a citation being issued to an employee of Atherton Automotive Service for providing tobacco to a minor. We are pursuing civil penalties against the permit holder. The civil penalty for a first violation is \$300. Atherton Automotive Service has made payment of the \$300 penalty and has submitted their Acknowledgement/Settlement Agreement. A resolution has been prepared authorizing the Mayor to execute the Order to Accept the Acknowledgement/Settlement Agreement from Atherton Automotive Service.
<b>Recommendation</b>
Authorize the Mayor to execute the Order Accepting the Acknowledgement/Settlement Agreement from Atherton Automotive Service for a first violation of the State's tobacco laws.

Don Bauermeister, Asst. City Attorney

\_\_\_\_\_  
Department Head Signature

\_\_\_\_\_  
Mayor Signature

RESOLUTION NO. 10-35

A RESOLUTION authorizing the Mayor to execute an Order Accepting the Acknowledgement/Settlement Agreement from Atherton Automotive Service, 2900 West Broadway, for a violation of Iowa Code Section 453A.2(1).

WHEREAS, the State of Iowa has enacted a comprehensive program aimed at reducing underage tobacco use; and

WHEREAS, compliance checks in Council Bluffs resulted in a citation being issued to an employee of Atherton Automotive Service, 2900 West Broadway, on or about November 12, 2009; and

WHEREAS, the mandatory civil penalty has been paid, and it is in the best interest of the City to execute an Order Accepting the Acknowledgement/Settlement Agreement from the above business for this violation.

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA

That the Mayor is hereby authorized to execute the Order Accepting the Acknowledgement/Settlement Agreement from Atherton Automotive for a violation of Iowa Code Section 453A.2.

ADOPTED  
AND  
APPROVED

January 25, 2010

\_\_\_\_\_  
THOMAS P. HANAFAN Mayor

Attest:

\_\_\_\_\_  
MARCIA L. WORDEN City Clerk

BEFORE THE CITY COUNCIL  
FOR THE CITY OF COUNCIL BLUFFS, IOWA

IN RE:

Atherton Automotive Service  
2900 W. Broadway  
Council Bluffs, IA 51501

**ORDER ACCEPTING  
ACKNOWLEDGEMENT/SETTLEMENT  
AGREEMENT**

ON this \_\_\_\_\_ day of \_\_\_\_\_, 2010, in lieu of a public hearing on the matter, the City Council approves the attached Acknowledgement/Settlement Agreement between the above-captioned permittee and the City of Council Bluffs, Iowa.

THEREFORE, the City Council for the City of Council Bluffs, Iowa, FINDS that the above-captioned permittee has remitted to the City of Council Bluffs, Iowa, a civil penalty in the amount of three hundred dollars (\$300.00). Be advised that this sanction will count as a first violation of Iowa Code Section 453A.2(1), pursuant to Iowa Code Section 453A.22(2)(a).

IT IS THEREFORE ORDERED that the judgment in this matter is hereby satisfied.

\_\_\_\_\_  
THOMAS P. HANAFAN Mayor

Attest:

\_\_\_\_\_  
MARCIA L. WORDEN City Clerk

To: Mayor Thomas P. Hanafan  
Members of the City Council

From: Arthur W. Hill  
Finance Director

Date: January 20, 2010

RE: Final Debt Instruments  
Waste Water Treatment Plant – Sewer Revenue Capital Loan Notes (\$945,000)  
East Manawa Porous Paving – Sewer Revenue Capital Loan Notes (\$375,000)

The City of Council Bluffs had prepared a “Green Project” grant application with the Iowa Finance Authority for costs associated with the wastewater treatment plant. In addition The City of Council Bluffs had prepared a “Green Project” grant application with the Iowa Finance Authority for phase II of the East Manawa Project.

These applications contained provisions that called for 80% of the projects’ costs to become an obligations of the city, with 20% the projects costs becoming a forgivable loan – in essence a grant.

The debt instruments for the obligation portions of these projects are in the form of sewer revenue capital loan notes.

You authorized city officials to move forward with the projects and applications at the November 23, 2009 meeting. We are now seeking final authorizations in connection with both applications.

We are requesting that the council grant all approvals included in the attached documentation.

ORIGINAL

(This Notice to be posted)

### NOTICE AND CALL OF PUBLIC MEETING

Governmental Body: The City Council of the City of Council Bluffs, Iowa.  
Date of Meeting: January 25, 2010.  
Time of Meeting: \_\_\_\_\_ o'clock \_\_\_\_\_.M.  
Place of Meeting: Council Chambers, City Hall, 209 Pearl Street, Council Bluffs, Iowa.

PUBLIC NOTICE IS HEREBY GIVEN that the above mentioned governmental body will meet at the date, time and place above set out. The tentative agenda for said meeting is as follows:

\$375,000 Sewer Revenue Capital Loan Notes, Series 2010.

- Approve form of Tax Exemption Certificate.
- Resolution approving and authorizing the form of Loan and Disbursement Agreements by and between the City of Council Bluffs and the Iowa Finance Authority, and authorizing and providing for the issuance and securing the payment of \$375,000 Sewer Revenue Capital Loan Notes, Series 2010, of the City of Council Bluffs, Iowa, under the provisions of the Code of Iowa, and providing for a method of payment of said Notes.

Such additional matters as are set forth on the additional \_\_\_\_\_ page(s) attached hereto. (number)

This notice is given at the direction of the Mayor pursuant to Chapter 21, Code of Iowa, and the local rules of said governmental body.

\_\_\_\_\_  
Clerk, Council Bluffs, Iowa

January 25, 2010

The City Council of the City of Council Bluffs, Iowa, met in \_\_\_\_\_ session,  
in the Council Chambers, City Hall, 209 Pearl Street, Council Bluffs, Iowa, at  
\_\_\_\_\_ o'clock \_\_\_\_\_M., on the above date. There were present Mayor  
\_\_\_\_\_, in the chair, and the following named Council  
Members:

\_\_\_\_\_  
\_\_\_\_\_

Absent: \_\_\_\_\_

\* \* \* \* \*

Council Member \_\_\_\_\_ moved that the form of Tax Exemption Certificate and Loan and Disbursement Agreements be placed on file and approved. Council Member \_\_\_\_\_ seconded the motion and the roll being called thereon, the vote was as follows:

AYES: \_\_\_\_\_

\_\_\_\_\_

NAYS: \_\_\_\_\_

Council Member \_\_\_\_\_ introduced the following Resolution entitled "A RESOLUTION APPROVING AND AUTHORIZING THE FORM OF LOAN AND DISBURSEMENT AGREEMENTS BY AND BETWEEN THE CITY OF COUNCIL BLUFFS AND THE IOWA FINANCE AUTHORITY, AND AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND SECURING THE PAYMENT OF \$375,000 SEWER REVENUE CAPITAL LOAN NOTES, SERIES 2010, OF THE CITY OF COUNCIL BLUFFS, IOWA, UNDER THE PROVISIONS OF THE CODE OF IOWA, AND PROVIDING FOR A METHOD OF PAYMENT OF SAID NOTES", and moved its adoption. Council Member \_\_\_\_\_ seconded the motion to adopt. The roll was called and the vote was:

AYES: \_\_\_\_\_

\_\_\_\_\_

NAYS: \_\_\_\_\_

Whereupon the Mayor declared the following Resolution duly adopted:

Resolution No. \_\_\_\_\_

A RESOLUTION APPROVING AND AUTHORIZING THE  
FORM OF LOAN AND DISBURSEMENT AGREEMENTS  
BY AND BETWEEN THE CITY OF COUNCIL BLUFFS  
AND THE IOWA FINANCE AUTHORITY, AND  
AUTHORIZING AND PROVIDING FOR THE ISSUANCE  
AND SECURING THE PAYMENT OF \$375,000 SEWER  
REVENUE CAPITAL LOAN NOTES, SERIES 2010, OF  
THE CITY OF COUNCIL BLUFFS, IOWA, UNDER THE  
PROVISIONS OF THE CODE OF IOWA, AND  
PROVIDING FOR A METHOD OF PAYMENT OF SAID  
NOTES

WHEREAS, the City Council of the City of Council Bluffs, Iowa, sometimes hereinafter referred to as the "Issuer", has heretofore established charges, rates and rentals for services which are and will continue to be collected as system revenues of the municipal sewer system, sometimes hereinafter referred to as the "System", and said revenues have not been pledged and are available for the payment of Sewer Revenue Capital Loan Notes, Series 2010, subject to the following premises; and

WHEREAS, Issuer proposes to issue its Sewer Revenue Capital Loan Notes, Series 2010, to the extent of \$375,000, for the purpose of defraying the costs of the Project as set forth in Section 1 of this Resolution; and, it is deemed necessary and advisable and in the best interests of the Issuer that the form of Loan and Disbursement Agreements by and between the Issuer and the Iowa Finance Authority, be approved and authorized; and

WHEREAS, pursuant to the American Recovery and Reinvestment Act of 2009 ("ARRA"), and in accordance with the terms of the Forgivable Loan and Disbursement Agreement, the Iowa Finance Authority has authority to make and desires to make a forgivable loan to the City in the amount of \$75,000, from funds available to the Iowa Finance Authority under the ARRA, for the purpose of assisting in financing a portion of the Project (defined herein); and

WHEREAS, the notice of intention of Issuer to take action for the issuance of \$375,000 Sewer Revenue Capital Loan Notes, Series 2010, has heretofore been duly published and no objections to such proposed action have been filed.



NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS, IN THE COUNTY OF POTTAWATTAMIE, STATE OF IOWA:

Section 1. Definitions. The following terms shall have the following meanings in this Resolution unless the text expressly or by necessary implication requires otherwise:

- "Additional Bonds" shall mean any sewer revenue bonds or notes or other obligations issued on a parity with the Notes in accordance with the provisions of Section 22 hereof. Provided, however, Additional Bonds which are SRF Obligations shall not be secured by a Reserve Fund and shall not be subject to a Reserve Fund Requirement.
- "Agreements" shall mean the Loan and Disbursement Agreement and the Forgivable Loan and Disbursement Agreement, both dated as of the Closing between the City and the Original Purchaser, relating to the Loan made to the City under the Program;
- "Closing" shall mean the date of delivery of the Notes to the Original Purchaser and the funding of the Loan by the Trustee;
- "Corporate Seal" shall mean the official seal of Issuer adopted by the Governing Body;
- "Fiscal Year" shall mean the twelve months' period beginning on July 1 of each year and ending on the last day of June of the following year, or any other consecutive twelve-month period adopted by the Governing Body or by law as the official accounting period of the System; provided, that the requirements of a fiscal year as expressed in this Resolution shall exclude any payment of principal or interest falling due on the first day of the fiscal year and include any payment of principal or interest falling due on the first day of the succeeding fiscal year;
- "Governing Body" shall mean the City Council of the City, or its successor in function with respect to the operation and control of the System;
- "Independent Auditor" shall mean an independent firm of certified public accountants or the Auditor of State;
- "Issuer" and "City" shall mean the City of Council Bluffs, Iowa;

- "Loan" shall mean the principal amount allocated by the Original Purchaser to the City under the Program, equal in amount to the principal amount of the Notes;
- "Net Revenues" shall mean gross earnings of the System after deduction of Current Expenses; "Current Expenses" shall mean and include the reasonable and necessary cost of operating, maintaining, repairing and insuring the System, including purchases at wholesale, if any, salaries, wages, and costs of materials and supplies, but excluding depreciation and principal of and interest on the Notes and any Parity Obligations or payments to the various funds established herein; capital costs, depreciation and interest or principal payments are not System expenses;
- "Notes" or "Note" shall mean \$375,000 Sewer Revenue Capital Loan Notes, Series 2010, authorized to be issued by this Resolution;
- "Original Purchaser" shall mean the Iowa Finance Authority, as the purchaser of the Notes from Issuer at the time of their original issuance;
- "Parity Obligations" shall mean notes or bonds payable solely from the Net Revenues of the System on an equal basis with the Notes herein authorized to be issued, and shall include Additional Bonds as authorized to be issued under the terms of this Resolution;
- "Paying Agent" shall be the Finance Director, or such successor as may be approved by Issuer as provided herein and who shall carry out the duties prescribed herein as Issuer's agent to provide for the payment of principal of and interest on the Notes as the same shall become due;
- "Permitted Investments" shall mean any investments permitted in Iowa Code chapter 12B or section 12C.9. All interim investments must mature before the date on which the moneys are required for payment of principal and interest on the Notes or project costs;
- "Program" shall mean the Iowa Water Pollution Control Works Financing Program undertaken by the Original Purchaser;
- "Project" shall mean the costs of acquisition, construction, reconstruction, extending, remodeling, improving, repairing and equipping of the System;

- "Project Fund" shall mean the Loan Account maintained by the Trustee under the Program for the benefit of the Issuer, into which the proceeds of the Loan and the Notes shall be allocated and held until disbursed to pay Project costs;
- "Rebate Fund" shall mean the fund so defined in and established pursuant to the Tax Exemption Certificate;
- "Registrar" shall mean the Finance Director, or such successor as may be approved by Issuer as provided herein and who shall carry out the duties prescribed herein with respect to maintaining a register of the owners of the Notes. Unless otherwise specified, the Registrar shall also act as Transfer Agent for the Notes;
- "SRF Obligations" shall mean bonds, notes or other obligations as may be issued in connection with the Issuer's participation in the Iowa Water Pollution Control Works Financing Program administered by the Iowa Finance Authority and Iowa Department of Natural Resources, including capitalization grants which are eligible for loan forgiveness and funded pursuant to and subject to requirements under the American Recovery and Reinvestment Act of 2009, which SRF Obligations may be Senior SRF Obligations or subordinate SRF Obligations.
- "System" shall mean the municipal sewer system utility of the Issuer and all properties of every nature hereinafter owned by the Issuer comprising part of or used as a part of the System, including all wastewater treatment facilities, sanitary sewers, force mains, pumping stations and all related property and improvements and extensions made by Issuer while any of the Notes or Parity Obligations remain outstanding; all real and personal property; and all appurtenances, contracts, leases, franchises and other intangibles;
- "Tax Exemption Certificate" shall mean the Tax Exemption Certificate executed by the Treasurer and delivered at the time of issuance and delivery of the Notes; and
- "Treasurer" shall mean the Finance Director or such other officer as shall succeed to the same duties and responsibilities with respect to the recording and payment of the Notes issued hereunder.
- "Trustee" shall mean Wells Fargo Bank, National Association, with its principal office located in the City of Des Moines, Iowa, and its successors and

any corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party and any successor trustee under the Program.

▪ "Yield Restricted" shall mean required to be invested at a yield that is not materially higher than the yield on the Notes under Section 148(a) of the Internal Revenue Code or regulations issued thereunder.

Section 2. Authority. The Agreements and the Notes authorized by this Resolution shall be issued pursuant to Sections 384.24A and 384.82 of the Code of Iowa, and in compliance with all applicable provisions of the Constitution and laws of the State of Iowa. The Agreements shall be substantially in the form attached to this Resolution and are authorized to be executed and issued on behalf of the Issuer by the Mayor and attested by the Clerk.

Section 3. Authorization and Purpose. There are hereby authorized to be issued, negotiable, serial, fully registered Revenue Notes of the City of Council Bluffs, in the County of Pottawattamie, State of Iowa, each to be designated as "Sewer Revenue Capital Loan Note, Series 2010", in the aggregate amount of \$375,000, for the purpose of paying costs of the Project. The City Council, pursuant to Sections 384.24A and 384.82 of the Code of Iowa, hereby finds and determines that it is necessary and advisable to issue said Notes authorized by the Agreement and this Resolution.

Section 4. Source of Payment. The Notes herein authorized and Parity Obligations and the interest thereon shall be payable solely and only out of the net earnings of the System and shall be a first lien on the future Net Revenues of the System. The Notes shall not be general obligations of the Issuer nor shall they be payable in any manner by taxation and the Issuer shall be in no manner liable by reason of the failure of the said Net Revenues to be sufficient for the payment of the Notes.

Section 5. Note Details. Sewer Revenue Capital Loan Notes, Series 2010, of the Issuer in the amount of \$375,000, shall be issued to evidence the obligations of the Issuer under the Agreement pursuant to the provisions of Sections 384.24A and 384.82 of the Code of Iowa for the aforesaid purpose. The Notes shall be designated "SEWER REVENUE CAPITAL LOAN NOTE, SERIES 2010", be dated the date of delivery, and bear interest at the rate of 3.0% per annum from the date of each advancement made under the Agreement, until payment thereof, at the office of the Paying Agent, said interest payable on June 1, 2010 on the \$300,000 issue and on June 1, 2011 on the \$75,000 issue, and semiannually thereafter on the 1st day of June and December in each year until maturity as set forth on the Debt Service Schedules attached to the Agreements as Exhibit A and incorporated herein by this reference. As set forth on said Debt Service Schedules, principal shall be payable on June 1, 2011 and annually thereafter on the 1st

day of June in the amounts set forth therein until principal and interest are fully paid, except that the final installment of the entire balance of principal and interest, if not sooner paid, shall become due and payable on June 1, 2030. Notwithstanding the foregoing or any other provision hereof, principal and interest shall be payable as shown on said Debt Service Schedules until completion of the Project, at which time the final Debt Service Schedules shall be determined by the Trustee based upon actual advancements, final costs and completion of the Project, all as provided in the administrative rules governing the Program. Payment of principal and interest on the Notes shall at all times conform to said Debt Service Schedules and the rules of the Program.

The Notes shall be executed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the Clerk, and impressed or imprinted with the seal of the City and shall be fully registered as to both principal and interest as provided in this Resolution; principal, interest and premium, if any, shall be payable at the office of the Paying Agent by mailing of a check, wire transfer or automated clearing house system transfer to the registered owner of the Note. The Notes may be in the denomination of \$1,000 or multiples thereof and shall at the request of the Original Purchaser be initially issued in Notes in the respective denominations of \$300,000 numbered R-1 and \$75,000 numbered R-2.

Section 6. Initiation Fee and Servicing Fee. In addition to the payment of principal of and interest on the Notes, the Issuer also agrees to pay the Initiation Fee and the Servicing Fee as defined and in accordance with the terms of the Agreements.

Section 7. Forgivable Loan. Notwithstanding Sections 5 and 6 to the contrary, with regard to Note R-2, provided that the Issuer proceeds with diligence to completion of the Project and complies with all applicable ARRA requirements as fully set forth in section 14 of the Forgivable Loan and Disbursement Agreement (the "Forgivable Loan"), (i) no payments of interest, principal, Servicing Fee or Initiation Fee shall be due under the Forgivable Loan during construction of the Project and (ii) following completion of the Project and receipt by the Iowa Finance Authority of a certificate of completion from the Issuer, the Forgivable Loan shall be forgiven, in full, by the Iowa Finance Authority, and no payments of principal or interest shall be due under the Forgivable Loan and Disbursement Agreement.

Section 8. Redemption. The Notes are subject to optional redemption at a price of par plus accrued interest (i) on any date upon receipt of written consent of the Original Purchaser or (ii) in the event that all or substantially all of the Project is damaged or destroyed. Any optional redemption of the Notes may be made from any funds regardless of source, in whole or from time to time in part, in inverse order of maturity, by giving

not less than thirty (30) days notice of redemption by certified or registered mail to the Original Purchaser (or any other registered owner of the Notes). The terms of redemption shall be par, plus accrued interest to date of call. The Notes are also subject to mandatory redemption as set forth in Section 5 of the Agreements.

Section 9. Registration of Notes; Appointment of Registrar; Transfer; Ownership; Delivery; and Cancellation.

(a) Registration. The ownership of Notes may be transferred only by the making of an entry upon the books kept for the registration and transfer of ownership of the Notes, and in no other way. The Finance Director is hereby appointed as Note Registrar under the terms of this Resolution. Registrar shall maintain the books of the Issuer for the registration of ownership of the Notes for the payment of principal of and interest on the Notes as provided in this Resolution. All Notes shall be negotiable as provided in Article 8 of the Uniform Commercial Code subject to the provisions for registration and transfer contained in the Notes and in this Resolution.

(b) Transfer. The ownership of any Note may be transferred only upon the Registration Books kept for the registration and transfer of Notes and only upon surrender thereof at the office of the Registrar together with an assignment duly executed by the holder or his duly authorized attorney in fact in such form as shall be satisfactory to the Registrar, along with the address and social security number or federal employer identification number of such transferee (or, if registration is to be made in the name of multiple individuals, of all such transferees). In the event that the address of the registered owner of a Note (other than a registered owner which is the nominee of the broker or dealer in question) is that of a broker or dealer, there must be disclosed on the Registration Books the information pertaining to the registered owner required above. Upon the transfer of any such Note, a new fully registered Note, of any denomination or denominations permitted by this Resolution in aggregate principal amount equal to the unmatured and unredeemed principal amount of such transferred fully registered Note, and bearing interest at the same rate and maturing on the same date or dates shall be delivered by the Registrar.

(c) Registration of Transferred Notes. In all cases of the transfer of the Notes, the Registrar shall register, at the earliest practicable time, on the Registration Books, the Notes, in accordance with the provisions of this Resolution.

(d) Ownership. As to any Note, the person in whose name the ownership of the same shall be registered on the Registration Books of the Registrar shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of any such Notes and the premium, if any, and interest thereon shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note, including the interest thereon, to the extent of the sum or sums so paid.

(e) Cancellation. All Notes which have been redeemed shall not be reissued but shall be cancelled by the Registrar. All Notes which are cancelled by the Registrar shall be destroyed and a Certificate of the destruction thereof shall be furnished promptly to the Issuer; provided that if the Issuer shall so direct, the Registrar shall forward the cancelled Notes to the Issuer.

(f) Non-Presentation of Notes. In the event any payment check representing payment of principal of or interest on the Notes is returned to the Paying Agent or if any Note is not presented for payment of principal at the maturity or redemption date, if funds sufficient to pay such principal of or interest on Notes shall have been made available to the Paying Agent for the benefit of the owner thereof, all liability of the Issuer to the owner thereof for such interest or payment of such Notes shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the owner of such Notes who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Resolution or on, or with respect to, such interest or Notes. The Paying Agent's obligation to hold such funds shall continue for a period equal to two years and six months following the date on which such interest or principal became due, whether at maturity, or at the date fixed for redemption thereof, or otherwise, at which time the Paying Agent, shall surrender any remaining funds so held to the Issuer, whereupon any claim under this Resolution by the Owners of such interest or Notes of whatever nature shall be made upon the Issuer.

Section 10. Reissuance of Mutilated, Destroyed, Stolen or Lost Notes. In case any outstanding Note shall become mutilated or be destroyed, stolen or lost, the Issuer shall at the request of Registrar authenticate and deliver a new Note of like tenor and amount as the Note so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Note to Registrar, upon surrender of such mutilated Note, or in lieu of and substitution for the Note destroyed, stolen or lost, upon filing with the Registrar evidence satisfactory to the Registrar and Issuer that such Note has been destroyed, stolen

or lost and proof of ownership thereof, and upon furnishing the Registrar and Issuer with satisfactory indemnity and complying with such other reasonable regulations as the Issuer or its agent may prescribe and paying such expenses as the Issuer may incur in connection therewith.

Section 11. Record Date. Payments of principal and interest, otherwise than upon full redemption, made in respect of any Note, shall be made to the registered holder thereof or to their designated Agent as the same appear on the books of the Registrar on the 15th day of the month preceding the payment date. All such payments shall fully discharge the obligations of the Issuer in respect of such Notes to the extent of the payments so made.

Section 12. Execution, Authentication and Delivery of the Notes. Upon the adoption of this Resolution, the Mayor and Clerk shall execute and deliver the Notes to the Registrar, who shall authenticate the Notes and deliver the same to or upon order of the Original Purchaser. No Note shall be valid or obligatory for any purpose or shall be entitled to any right or benefit hereunder unless the Registrar shall duly endorse and execute on such Note a Certificate of Authentication substantially in the form of the Certificate herein set forth. Such Certificate upon any Note executed on behalf of the Issuer shall be conclusive evidence that the Note so authenticated has been duly issued under this Resolution and that the holder thereof is entitled to the benefits of this Resolution.

Section 13. Right to Name Substitute Paying Agent or Registrar. Issuer reserves the right to name a substitute, successor Registrar or Paying Agent upon giving prompt written notice to each registered noteholder.



Section 14. Form of Note. Notes shall be printed in substantial compliance with standards proposed by the American Standards Institute substantially in the form as follows:

(6)	(6)		
(7)	(8)		
(1)			
(2)	(3)	(4)	(5)
(9)			
(9a)			
(10) (Continued on the back of this Bond)			
(11)(12)(13)	(14)	(15)	

FIGURE 1  
(Front)

<p>(10) (Continued)</p>		<p>(16)</p>
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FIGURE 2  
(Back)

The text of the Notes to be located thereon at the item numbers shown shall be as follows:

Item 1, figure 1 = "STATE OF IOWA"  
"COUNTY OF POTTAWATTAMIE"  
"CITY OF COUNCIL BLUFFS"  
"SEWER REVENUE CAPITAL LOAN NOTE"  
"SERIES 2010"

Item 2, figure 1 = Rate: \_\_\_\_\_ %  
Item 3, figure 1 = Final Maturity: \_\_\_\_\_  
Item 4, figure 1 = Note Date: \_\_\_\_\_  
Item 5, figure 1 = CUSIP # \_\_\_\_\_  
Item 6, figure 1 = "Registered"  
Item 7, figure 1 = Certificate No. R-\_\_\_\_\_  
Item 8, figure 1 = Principal Amount: \$ \_\_\_\_\_

Item 9, figure 1 = The City of Council Bluffs, Iowa, a municipal corporation organized and existing under and by virtue of the Constitution and laws of the State of Iowa (the "Issuer"), for value received, promises to pay from the source and as hereinafter provided, to

#### IOWA FINANCE AUTHORITY

Item 10, figure 1 = or registered assigns, the principal sum of (principal amount written out) in lawful money of the United States of America, on the maturity dates and in the principal amounts set forth on the Debt Service Schedule attached hereto and incorporated herein by this reference, with interest on said sum from the date of each advancement made under a certain Loan and Disbursement Agreement [*Option for Note R-2: Forgivable Loan and Disbursement Agreement*], dated as of the date hereof until paid at the rate of 3.0% per annum, payable on \_\_\_\_\_, 20\_\_\_\_, and semiannually thereafter on the 1st day of June and December in each year. As set forth on said Debt Service Schedule, principal shall be payable on June 1, 2011 and annually thereafter on the first day of June in the amounts set forth therein until principal and interest are fully paid, except that the final installment of the entire balance of principal and interest, if not sooner paid, shall become due and payable on June 1, 2030. Notwithstanding the foregoing or any other provision hereof, principal and interest shall be payable as shown on said Debt Service Schedule until completion of the Project, at which time the final Debt Service Schedule shall be determined by the Trustee and attached hereto based upon actual advancements, final costs and completion of the Project, all as provided in the administrative rules governing the Iowa Water Pollution

Control Works Financing Program. Payment of principal and interest of this Note shall at all times conform to said Debt Service Schedule and the rules of the Iowa Water Pollution Control Works Financing Program.

Interest and principal shall be paid to the registered holder of the Note as shown on the records of ownership maintained by the Registrar as of the 15th day of the month next preceding such interest payment date. Interest shall be computed on the basis of a 360-day year of twelve 30-day months.

This Note is issued pursuant to the provisions of Sections 384.24A and 384.83 of the Code of Iowa, for the purpose of paying costs of acquisition, construction, reconstruction, extending, remodeling, improving, repairing and equipping all or part of the System, and evidences amounts payable under a certain *[Loan and Disbursement Agreement]* *[Option for Note R-2: Forgivable Loan and Disbursement Agreement]*, dated as of the date hereof, in conformity to a Resolution of the City Council of said City duly passed and approved. For a complete statement of the revenues and funds from which and the conditions under which this Note is payable, a statement of the conditions under which additional notes or bonds of equal standing may be issued, and the general covenants and provisions pursuant to which this Note is issued, reference is made to the above-described Loan and Disbursement Agreements and Resolution.

This Note is subject to optional redemption at a price of par plus accrued interest (i) on any date upon receipt of written consent of the Iowa Finance Authority or (ii) in the event that all or substantially all of the Project is damaged or destroyed. Any optional redemption of this Note may be made from any funds regardless of source, in whole or from time to time in part, in inverse order of maturity, by lot by giving thirty (30) days notice of redemption by certified or registered mail, to the Iowa Finance Authority (or any other registered owner of the Note). This Note is also subject to mandatory redemption as set forth in Section 5 of the Agreements.

Ownership of this Note may be transferred only by transfer upon the books kept for such purpose by the Finance Director, Council Bluffs, Iowa, the Registrar. Such transfer on the books shall occur only upon presentation and surrender of this Note at the office of the Registrar, together with an assignment duly executed by the owner hereof or his duly authorized attorney in the form as shall be satisfactory to the Registrar. Issuer reserves the right to substitute the Registrar and Paying Agent but shall, however, promptly give notice to registered Noteholders of such change. All Notes shall be negotiable as provided in Article 8 of the Uniform Commercial Code and subject to the provisions for registration and transfer contained in the Note Resolution.

This Note and the series of which it forms a part, and any additional obligations which may be hereafter issued and outstanding from time to time on a parity with said Notes, as provided in the Resolution and Loan and Disbursement Agreements of which notice is hereby given and which are hereby made a part hereof, are payable from and secured by a pledge of the net revenues of the municipal sewer system utility (the "System"), as defined and provided in said Resolution. There has heretofore been established and the City covenants and agrees that it will maintain just and equitable rates or charges for the use of and service rendered by said System in each year for the payment of the proper and reasonable expenses of operation and maintenance of said System and for the establishment of a sufficient sinking fund to meet the principal of and interest on this series of Notes, and other obligations ranking on a parity therewith, as the same become due. This Note is not payable in any manner by taxation and under no circumstances shall the City be in any manner liable by reason of the failure of said net earnings to be sufficient for the payment hereof.

And it is hereby represented and certified that all acts, conditions and things requisite, according to the laws and Constitution of the State of Iowa, to exist, to be had, to be done, or to be performed precedent to the lawful issue of this Note, have been existent, had, done and performed as required by law.

IN TESTIMONY WHEREOF, said City by its City Council has caused this Note to be signed by the manual signature of its Mayor and attested by the manual signature of its Clerk, with the seal of said City impressed hereon, and authenticated by the manual signature of an authorized representative of the Registrar, the Finance Director of Council Bluffs, Iowa, all as of the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Item 11, figure 1 = Date of Authentication:

Item 12, figure 1 = This is one of the Notes described in the within mentioned Resolution, as registered by the Finance Director.

FINANCE DIRECTOR

By: \_\_\_\_\_  
Registrar

Item 13, figure 1 = Registrar and Transfer Agent: Finance Director  
Paying Agent: Finance Director

Item 14, figure 1 = (Seal)

Item 15, figure 1 = [Signature Block]

CITY OF COUNCIL BLUFFS, IOWA

By: \_\_\_\_\_ (manual signature)  
Mayor

Attest: \_\_\_\_\_ (manual signature)  
Clerk

Item 17, figure 2 = [Assignment Block]  
[Information Required for Registration]

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ (Social Security or Tax Identification No. \_\_\_\_\_) the within Note and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney in fact to transfer the said Note on the books kept for registration of the within Note, with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Person(s) executing this Assignment sign(s) here)

SIGNATURE )  
GUARANTEED) \_\_\_\_\_

IMPORTANT - READ CAREFULLY

The signature(s) to this Power must correspond with the name(s) as written upon the face of the Certificate(s) or Note(s) in every particular without alteration or enlargement or any change whatever. Signature guarantee must be provided in accordance with the prevailing standards and procedures of the Registrar and Transfer Agent. Such standards and procedures may require signature to be guaranteed by certain eligible guarantor institutions that participate in a recognized signature guarantee program.

INFORMATION REQUIRED FOR REGISTRATION OF TRANSFER



Section 17. User Rates. There has heretofore been established and published as required by law, just and equitable rates or charges for the use of the service rendered by the System. Said rates or charges shall be paid by the owner of each and every lot, parcel of real estate, or building that is connected with and uses the System, by or through any part of the System or that in any way uses or is served by the System.

Any revenue paid and collected for the use of the System and its services by the Issuer or any department, agency or instrumentality of the Issuer shall be used and accounted for in the same manner as any other revenues derived from the operations of the System.

Section 18. Application of Revenues. From and after the delivery of any Notes, and as long as any of the Notes or Parity Obligations shall be outstanding and unpaid either as to principal or as to interest, or until all of the Notes and Parity Obligations then outstanding shall have been discharged and satisfied in the manner provided in this Resolution, the entire income and revenues of the System shall be deposited as collected in a fund to be known as the Sewer Revenue Fund (the "Revenue Fund"), and shall be disbursed only as follows:

- Operation and Maintenance Fund. Money in the Revenue Fund shall first be disbursed to make deposits into a separate and special fund to pay current expenses. The fund shall be known as the Sewer Utility Operation and Maintenance Fund (the "Operation and Maintenance Fund"). There shall be deposited in the Operation and Maintenance Fund each month an amount sufficient to meet the current expenses of the month plus an amount equal to 1/12th of expenses payable on an annual basis such as insurance. After the first day of the month, further deposits may be made to this account from the Revenue Fund to the extent necessary to pay current expenses accrued and payable to the extent that funds are not available in the Surplus Fund.

- Sinking Fund. Money in the Revenue Fund shall next be disbursed to make deposits into a separate and special fund to pay principal of and interest on the Notes and Parity Obligations. The fund shall be known as the Sewer Revenue Note Principal and Interest Sinking Fund (the "Sinking Fund"). The required amount to be deposited in the Sinking Fund in any month shall be an amount equal to 1/6th of the installment of interest coming due on the next interest payment date on the then outstanding Notes and Parity Obligations, plus 1/12th of the installment of principal coming due on such Notes on the next succeeding principal payment date until the full amount of such installment is on hand. If for any reason the amount on hand in the Sinking Fund exceeds the required amount, the excess shall forthwith be withdrawn and paid into the Revenue Fund. Money



in the Sinking Fund shall be used solely for the purpose of paying principal of and interest on the Notes and Parity Obligations as the same shall become due and payable.

- Subordinate Obligations. Money in the Revenue Fund may next be used to pay principal of and interest on (including reasonable reserves therefor) any other obligations which by their terms shall be payable from the revenues of the System, but subordinate to the Notes and Parity Obligations, and which have been issued for the purposes of extensions and improvements to the System or to retire the Notes or Parity Obligations in advance of maturity, or to pay for extraordinary repairs or replacements to the System.

- Surplus Revenue. All money thereafter remaining in the Revenue Fund at the close of each month may be deposited in any of the funds created by this Resolution, to pay for extraordinary repairs or replacements to the System, or may be used to pay or redeem the Notes or Parity Obligations, any of them, or for any lawful purpose.

Money in the Revenue Fund shall be allotted and paid into the various funds and accounts hereinbefore referred to in the order in which said funds are listed, on a cumulative basis on the 10th day of each month, or on the next succeeding business day when the 10th shall not be a business day; and if in any month the money in the Revenue Fund shall be insufficient to deposit or transfer the required amount in any of said funds or accounts, the deficiency shall be made up in the following month or months after payments into all funds and accounts enjoying a prior claim to the revenues shall have been met in full.

Section 19. Investments. Moneys on hand in the Project Fund and all of the funds provided by this Resolution may be invested only in Permitted Investments or deposited in financial institutions which are members of the Federal Deposit Insurance Corporation, or its equivalent successor, and the deposits of which are insured thereby and all such deposits exceeding the maximum amount insured from time to time by FDIC or its equivalent successor in any one financial institution shall be continuously secured in compliance with the State Sinking Fund provided under Iowa Code chapter 12C, or otherwise by a valid pledge of direct obligations of the United States Government having an equivalent market value. All investments shall mature before the date on which the moneys are required for the purposes for which the fund was created or otherwise as herein provided. The provisions of this Section shall not be construed to require the Issuer to maintain separate accounts for the funds created by this Section.

The Sinking Fund shall be segregated in a separate account but may be invested in the same manner as other funds of the Issuer but designated as a trust fund on the books and records of the Issuer. The Sinking Fund shall not be available for any other purposes other than those specified in this Resolution.

All income derived from such investments shall be deposited in the Revenue Fund and shall be regarded as revenues of the System. Investments shall at any time necessary be liquidated and the proceeds thereof applied to the purpose for which the respective fund was created.

Section 20. Covenants Regarding the Operation of the System. The Issuer hereby covenants and agrees with each and every holder of the Notes and Parity Obligations:

(a) Maintenance and Efficiency. The Issuer will maintain the System in good condition and operate it in an efficient manner and at reasonable cost.

(b) Sufficiency of Rates. On or before the beginning of each Fiscal Year the Governing Body will adopt or continue in effect rates for all services rendered by the System determined to be sufficient to produce Net Revenues for the next succeeding Fiscal Year which are (i) adequate to pay the principal and interest requirements thereof and to create or maintain the reserves as provided in this Resolution, and (ii) not less than 110 percent of the principal and interest requirements of the next succeeding Fiscal Year. No free use of the System by the Issuer or any department, agency or instrumentality of the Issuer shall be permitted except upon the determination of the Governing Body that the rates and changes otherwise in effect are sufficient to provide Net Revenues at least equal to the requirements of this subsection.

(c) Insurance. The Issuer shall maintain insurance for the benefit of the Noteholders on the insurable portions of the System of a kind and in an amount which normally would be carried by private companies engaged in a similar kind of business. The proceeds of any insurance, except public liability insurance, shall be used to repair or replace the part or parts of the System damaged or destroyed, or if not so used shall be placed in an improvement fund for the benefit of the System.

(d) Accounting and Audits. The Issuer will cause to be kept proper books and accounts adapted to the System and in accordance with generally accepted accounting practices and will diligently act to cause the books and accounts to be audited and reported upon by an Independent Auditor and will

provide copies of the audit report to the Department, all as provided in the Agreement. The Original Purchaser and holders of any of the Notes and Parity Obligations shall have at all reasonable times the right to inspect the System and the records, accounts and data of the Issuer relating thereto.

(e) State Laws. The Issuer will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State of Iowa, including the making and collecting of reasonable and sufficient rates for services rendered by the System as above provided, and will segregate the revenues of the System and apply said revenues to the funds specified in this Resolution.

(f) Property. The Issuer will not sell, lease, mortgage or in any manner dispose of the System, or any capital part thereof, including any and all extensions and additions that may be made thereto, until satisfaction and discharge of all of the Notes and Parity Obligations shall have been provided for in the manner provided in this Resolution; provided, however, this covenant shall not be construed to prevent the disposal by the Issuer of property which in the judgment of its Governing Body has become inexpedient or unprofitable to use in connection with the System, or if it is to the advantage of the System that other property of equal or higher value be substituted therefor, and provided further that the proceeds of the disposition of such property shall be placed in a revolving fund to be used in preference to other sources for capital improvements to the System. Any such proceeds of the disposition of property acquired with the proceeds of the Notes or Parity Obligations shall not be used to pay principal or interest on the Notes and Parity Obligations or for payments into the Sinking.

(g) Fidelity Bond. That the Issuer shall maintain fidelity bond coverage in amounts which normally would be carried by private companies engaged in a similar kind of business on each officer or employee having custody of funds of the System.

(h) Additional Charges. The Issuer will require proper connecting charges and/or other security for the payment of service charges.

(i) Budget. The Governing Body of the Issuer shall approve and conduct operations pursuant to a system budget of revenues and current expenses for each Fiscal Year. Such budget shall take into account revenues and current expenses during the current and last preceding Fiscal Years. Copies of such budget and any amendments thereto shall be mailed to the Original Purchaser and to the Noteholders upon request.

(j) Loan and Disbursement Agreements. The Issuer will comply with the terms and conditions of the Loan and Disbursement Agreement and the Forgivable Loan and Disbursement Agreement and perform as provided thereunder.

Section 21. Remedies of Noteholders. Except as herein expressly limited the holder or holders of the Notes and Parity Obligations shall have and possess all the rights of action and remedies afforded by the common law, the Constitution and statutes of the State of Iowa, and of the United States of America, for the enforcement of payment of their Notes and interest thereon, and of the pledge of the revenues made hereunder, and of all covenants of the Issuer hereunder.

Section 22. Prior Lien and Parity Obligations. The Issuer will issue no other notes, bonds or obligations of any kind or nature payable from or enjoying a lien or claim on the property or revenues of the System having priority over the Notes or Parity Obligations.

Additional Bonds may be issued on a parity and equality of rank with the Notes with respect to the lien and claim of such additional obligations to the revenues of the System and the money on deposit in the funds adopted by this Resolution, for the following purposes and under the following conditions, but not otherwise:

(a) For the purpose of refunding any of the Notes or Parity Obligations which shall have matured or which shall mature not later than three months after the date of delivery of such refunding obligation and for the payment of which there shall be insufficient money in the Sinking Fund;

(b) For the purpose of making extensions, additions, improvements or replacements to the System, or refunding any outstanding Notes, Parity Obligations or other obligations issued for such extensions, additions and improvements, if all of the following conditions shall have been met:

(i) before any such Additional Bonds ranking on a parity are issued, there will have been procured and filed with the Clerk, a statement of an Independent Auditor or Independent Financial Consultant or a Consulting Engineer, not a regular employee of the Issuer, reciting the opinion based upon necessary investigations that the Net Revenues of the System for the preceding Fiscal Year (with adjustments as hereinafter provided) were equal to at least 1.10 times the maximum amount that will be required in any Fiscal Year prior to the longest maturity of any of the then outstanding Notes or Parity Obligations for both principal of and

interest on all Notes or Parity Obligations then outstanding which are payable from the net earnings of the System and the Additional Bonds then proposed to be issued.

For the purpose of determining the Net Revenues of the System for the preceding Fiscal Year as aforesaid, the amount of the gross revenues for such year may be adjusted by an Independent Auditor or independent financial consultant or a Consulting Engineer, not a regular employee of the Issuer, so as to reflect any changes in the amount of such revenues which would have resulted had any revision of the schedule of rates or charges imposed at or prior to the time of the issuance of any such Additional Bonds been in effect during all of such preceding Fiscal Year.

(ii) the Additional Bonds must be payable as to principal and as to interest on the same month and day as the Notes herein authorized.

(iii) for the purposes of this Section, principal and interest falling due on the first day of a Fiscal Year shall be deemed a requirement of the immediately preceding Fiscal Year.

(iv) for the purposes of this Section, general obligation bonds or notes shall be refunded only upon a finding of necessity by the Governing Body and only to the extent the general obligation bonds or notes were issued or the proceeds thereof were expended for the System.

(v) for purposes of this Section, "preceding Fiscal Year" shall be the most recently completed Fiscal Year for which audited financial statements prepared by a certified public accountant are issued and available, but in no event a Fiscal Year which ended more than eighteen months prior to the date of issuance of the Additional Bonds.

Section 23. Disposition of Proceeds: Arbitrage Not Permitted. The Issuer reasonably expects and covenants that no use will be made of the proceeds from the issuance and sale of the Notes issued hereunder which will cause any of the Notes to be classified as arbitrage bonds within the meaning of Section 148(a) and (b) of the Internal Revenue Code of the United States, and that throughout the term of said Notes it will comply with the requirements of said statute and regulations issued thereunder.

To the best knowledge and belief of the Issuer, there are no facts or circumstances that would materially change the foregoing statements or the conclusion that it is not expected that the proceeds of the Notes will be used in a manner that would cause the

Notes to be arbitrage bonds. Without limiting the generality of the foregoing, the Issuer hereby agrees to comply with the provisions of the Tax Exemption Certificate and the provisions of the Tax Exemption Certificate are hereby incorporated by reference as part of this Resolution. The Finance Director is hereby directed to make and insert all calculations and determinations necessary to complete the Tax Exemption Certificate in all respects and to execute and deliver the Tax Exemption Certificate at issuance of the Notes to certify as to the reasonable expectations and covenants of the Issuer at that date.

The Issuer covenants that it will treat as Yield Restricted any proceeds of the Notes remaining unexpended after three years from the issuance and any other funds required by the Tax Exemption Certificate to be so treated. If any investments are held with respect to the Notes and Parity Obligations, the Issuer shall treat the same for the purpose of restricted yield as held in proportion to the original principal amounts of each issue.

The Issuer covenants that it will exceed any investment yield restriction provided in this Resolution only in the event that it shall first obtain an opinion of recognized bond counsel that the proposed investment action will not cause the Notes to be classified as arbitrage bonds under Section 148(a) and (b) the Internal Revenue Code or regulations issued thereunder.

The Issuer covenants that it will proceed with due diligence to spend the proceeds of the Notes for the purpose set forth in this Resolution. The Issuer further covenants that it will make no change in the use of the proceeds available for the construction of facilities or change in the use of any portion of the facilities constructed therefrom by persons other than the Issuer or the general public unless it has obtained an opinion of bond counsel or a revenue ruling that the proposed project or use will not be of such character as to cause interest on any of the Notes not to be exempt from federal income taxes in the hands of holders other than substantial users of the project, under the provisions of Section 142(a) of the Internal Revenue Code of the United States, related statutes and regulations.

Section 24. Additional Covenants, Representations and Warranties of the Issuer. The Issuer certifies and covenants with the purchasers and holders of the Notes from time to time outstanding that the Issuer through its officers, (a) will make such further specific covenants, representations and assurances as may be necessary or advisable; (b) comply with all representations, covenants and assurances contained in the Tax Exemption Certificate, which Tax Exemption Certificate shall constitute a part of the contract between the Issuer and the owners of the Notes; (c) consult with bond counsel (as defined in the Tax Exemption Certificate); (d) pay to the United States, as necessary, such sums of money representing required rebates of excess arbitrage profits relating to the Notes; (e) file such forms, statements and supporting documents as may be required and in a

timely manner; and (f) if deemed necessary or advisable by its officers, to employ and pay fiscal agents, financial advisors, attorneys and other persons to assist the Issuer in such compliance.

Section 25. Amendment of Resolution to Maintain Tax Exemption. This Resolution may be amended without the consent of any owner of the Notes if, in the opinion of bond counsel, such amendment is necessary to maintain tax exemption with respect to the Notes under applicable Federal law or regulations.

Section 26. Qualified Tax-Exempt Obligations. For the sole purpose of qualifying the Notes as "Qualified Tax-Exempt Obligations" pursuant to Section 265(b) of the Internal Revenue Code of the United States, as amended, the Issuer designates the Notes as qualified tax-exempt obligations and represents that the reasonably anticipated amount of tax-exempt governmental obligations which will be issued during the current calendar year will not exceed Thirty (30) Million Dollars.

Section 27. Discharge and Satisfaction of Notes. The covenants, liens and pledges entered into, created or imposed pursuant to this Resolution may be fully discharged and satisfied with respect to the Notes and Parity Obligations, or any of them, in any one or more of the following ways:

(a) By paying the Notes or Parity Obligations when the same shall become due and payable; and

(b) By depositing in trust with the Finance Director, or with a corporate trustee designated by the Governing Body, for the payment of said obligations and irrevocably appropriated exclusively to that purpose an amount in cash or direct obligations of the United States the maturities and income of which shall be sufficient to retire at maturity, or by redemption prior to maturity on a designated date upon which said obligations may be redeemed, all of such obligations outstanding at the time, together with the interest thereon to maturity or to the designated redemption date, premiums thereon, if any that may be payable on the redemption of the same; provided that proper notice of redemption of all such obligations to be redeemed shall have been previously published or provisions shall have been made for such publication.

Upon such payment or deposit of money or securities, or both, in the amount and manner provided by this Section, all liability of the Issuer with respect to the Notes or Obligations shall cease, determine and be completely discharged, and the holders thereof shall be entitled only to payment out of the money or securities so deposited.

Section 28. Resolution a Contract. The provisions of this Resolution shall constitute a contract between the Issuer and the holder or holders of the Notes and Parity Obligations, and after the issuance of any of the Notes no change, variation or alteration of any kind in the provisions of this Resolution shall be made in any manner, except as provided in the next succeeding Section, until such time as all of the Notes and Parity Obligations, and interest due thereon, shall have been satisfied and discharged as provided in this Resolution.

Section 29. Amendment of Resolution Without Consent. The Issuer may, without the consent of or notice to any of the holders of the Notes and Parity Obligations, amend or supplement this Resolution for any one or more of the following purposes:

(a) to cure any ambiguity, defect, omission or inconsistent provision in this Resolution or in the Notes or Parity Obligations; or to comply with any applicable provision of law or regulation of federal or state agencies; provided, however, that such action shall not materially adversely affect the interests of the holders of the Notes or Parity Obligations;

(b) to change the terms or provisions of this Resolution to the extent necessary to prevent the interest on the Notes or Parity Obligations from being includable within the gross income of the holders thereof for federal income tax purposes;

(c) to grant to or confer upon the holders of the Notes or Parity Obligations any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the holders of the Notes;

(d) to add to the covenants and agreements of the Issuer contained in this Resolution other covenants and agreements of, or conditions or restrictions upon, the Issuer or to surrender or eliminate any right or power reserved to or conferred upon the Issuer in this Resolution; or

(e) to subject to the lien and pledge of this Resolution additional pledged revenues as may be permitted by law.

Section 30. Amendment of Resolution Requiring Consent. This Resolution may be amended from time to time if such amendment shall have been consented to by holders of not less than two-thirds in principal amount of the Notes and Parity Obligations at any time outstanding (not including in any case any Notes which may then be held or owned by or for the account of the Issuer, but including such Refunding Obligations as may have been issued for the purpose of refunding any of such Notes if such Refunding Obligations



shall not then be owned by the Issuer); but this Resolution may not be so amended in such manner as to:

- (a) Make any change in the maturity or interest rate of the Notes, or modify the terms of payment of principal of or interest on the Notes or any of them or impose any conditions with respect to such payment;
- (b) Materially affect the rights of the holders of less than all of the Notes and Parity Obligations then outstanding; and
- (c) Reduce the percentage of the principal amount of Notes, the consent of the holders of which is required to effect a further amendment.

Whenever the Issuer shall propose to amend this Resolution under the provisions of this Section, it shall cause notice of the proposed amendment to be filed with the Original Purchaser and to be mailed by certified mail to each registered owner of any Note as shown by the records of the Registrar. Such notice shall set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory Resolution is on file in the office of the Clerk.

Whenever at any time within one year from the date of the mailing of said notice there shall be filed with the Clerk an instrument or instruments executed by the holders of at least two-thirds in aggregate principal amount of the Notes then outstanding as in this Section defined, which instrument or instruments shall refer to the proposed amendatory Resolution described in said notice and shall specifically consent to and approve the adoption thereof, thereupon, but not otherwise, the Governing Body of the Issuer may adopt such amendatory Resolution and such Resolution shall become effective and binding upon the holders of all of the Notes and Parity Obligations.

Any consent given by the holder of a Note pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the instrument evidencing such consent and shall be conclusive and binding upon all future holders of the same Note during such period. Such consent may be revoked at any time after six months from the date of such instrument by the holder who gave such consent or by a successor in title by filing notice of such revocation with the Clerk.

The fact and date of the execution of any instrument under the provisions of this Section may be proved by the certificate of any officer in any jurisdiction who by the laws thereof is authorized to take acknowledgments of deeds within such jurisdiction that the person signing such instrument acknowledged before him the execution thereof, or may be proved by an affidavit of a witness to such execution sworn to before such officer.

The amount and numbers of the Notes held by any person executing such instrument and the date of his holding the same may be proved by an affidavit by such person or by a certificate executed by an officer of a bank or trust company showing that on the date therein mentioned such person had on deposit with such bank or trust company the Notes described in such certificate.

Notwithstanding anything in this Section to the contrary, the holder or holders of 100% of the Notes and Parity Obligations may consent to any amendment of this Resolution, or waive any notices required hereunder, on such terms and under such conditions as said holders shall determine to be appropriate.

Section 31. Severability. If any section, paragraph, or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions.

Section 32. Repeal of Conflicting Ordinances or Resolutions and Effective Date. All other Ordinances, Resolutions and orders, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed; and this Resolution shall be in effect from and after its adoption.

Section 33. Rule of Construction. This Resolution and the terms and conditions of the Notes authorized hereby shall be construed whenever possible so as not to conflict with the terms and conditions of the Loan and Disbursement Agreements. In the event such construction is not possible, or in the event of any conflict or inconsistency between the terms hereof and those of the Loan and Disbursement Agreements, the terms of the Loan and Disbursement Agreements shall prevail and be given effect to the extent necessary to resolve any such conflict or inconsistency.

PASSED AND APPROVED this 25<sup>th</sup> day of January, 2010.

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Mayor

ATTEST:

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Clerk

# CERTIFICATE

STATE OF IOWA )  
 ) SS  
COUNTY OF POTTAWATTAMIE )

I, the undersigned City Clerk of Council Bluffs, Iowa, do hereby certify that attached is a true and complete copy of the portion of the corporate records of the Municipality showing proceedings of the Council, and the same is a true and complete copy of the action taken by the Council with respect to the matter at the meeting held on the date indicated in the attachment, which proceedings remain in full force and effect, and have not been amended or rescinded in any way; that meeting and all action thereat was duly and publicly held in accordance with a notice of meeting and tentative agenda, a copy of which was timely served on each member of the Council and posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the Council (a copy of the face sheet of the agenda being attached hereto) pursuant to the local rules of the Council and the provisions of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four hours prior to the commencement of the meeting as required by law and with members of the public present in attendance; I further certify that the individuals named therein were on the date thereof duly and lawfully possessed of their respective city offices as indicated therein, that no Council vacancy existed except as may be stated in the proceedings, and that no controversy or litigation is pending, prayed or threatened involving the incorporation, organization, existence or boundaries of the City or the right of the individuals named therein as officers to their respective positions.

WITNESS my hand and the seal of the Municipality hereto affixed this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

City Clerk, Council Bluffs, Iowa

SEAL

CMA\ER\643430.1\WP

# Estimated Amortization Schedule

City of Council Bluffs

CWSRF

Sewer Revenue Bond

CS-192481-01



**SRF**  
STATE  
REVOLVING FUND

## Loan summary

Loan Closing Date	Feb 17, 2010
Final Maturity Date	Jun 1, 2030
Loan period in years	20.0
Total Loan Amount Requested	\$ 300,000.00
Less: 1% Initiation Fee	\$ 3,000.00
Net Proceeds to Borrower	\$ 297,000.00
Annual interest rate	3.00%
Total interest	\$ 102,675.75
Servicing Fee rate	0.25%
Total Servicing Fees	\$ 9,407.50
Total Loan Costs	\$ 115,083.25

## Estimated Draw Schedule

Initiation Fee -	Feb 17, 2010	3,000.00
P&D Payback-	Feb 17, 2010	-
Estimated Draw -	Mar 5, 2010	50,000.00
Estimated Draw -	Apr 30, 2010	50,000.00
Estimated Draw -	Jun 25, 2010	50,000.00
Estimated Draw -	Aug 20, 2010	50,000.00
Estimated Draw -	Oct 15, 2010	50,000.00
Estimated Draw -	Dec 10, 2010	47,000.00
Total Draw Amount		300,000.00

Payment Date	Beginning Balance	Principal	Interest	Servicing Fee	Total Loan Payment	Total Annual Debt Service	Ending Balance
Jun 1, 2010	103,000.00		513.50	750.00	1,263.50	1,263.50	103,000.00
Dec 1, 2010	253,000.00		2,807.50		2,807.50		253,000.00
Jun 1, 2011	300,000.00	11,000.00	4,464.75	750.00	16,214.75	19,022.25	289,000.00
Dec 1, 2011	289,000.00		4,335.00		4,335.00		289,000.00
Jun 1, 2012	289,000.00	11,000.00	4,335.00	722.50	16,057.50	20,392.50	278,000.00
Dec 1, 2012	278,000.00		4,170.00		4,170.00		278,000.00
Jun 1, 2013	278,000.00	12,000.00	4,170.00	695.00	16,865.00	21,035.00	266,000.00
Dec 1, 2013	266,000.00		3,990.00		3,990.00		266,000.00
Jun 1, 2014	266,000.00	12,000.00	3,990.00	665.00	16,655.00	20,645.00	254,000.00
Dec 1, 2014	254,000.00		3,810.00		3,810.00		254,000.00
Jun 1, 2015	254,000.00	12,000.00	3,810.00	635.00	16,445.00	20,255.00	242,000.00
Dec 1, 2015	242,000.00		3,630.00		3,630.00		242,000.00
Jun 1, 2016	242,000.00	13,000.00	3,630.00	605.00	17,235.00	20,865.00	229,000.00
Dec 1, 2016	229,000.00		3,435.00		3,435.00		229,000.00
Jun 1, 2017	229,000.00	13,000.00	3,435.00	572.50	17,007.50	20,442.50	216,000.00
Dec 1, 2017	216,000.00		3,240.00		3,240.00		216,000.00
Jun 1, 2018	216,000.00	14,000.00	3,240.00	540.00	17,780.00	21,020.00	202,000.00
Dec 1, 2018	202,000.00		3,030.00		3,030.00		202,000.00
Jun 1, 2019	202,000.00	14,000.00	3,030.00	505.00	17,535.00	20,565.00	188,000.00
Dec 1, 2019	188,000.00		2,820.00		2,820.00		188,000.00
Jun 1, 2020	188,000.00	15,000.00	2,820.00	470.00	18,290.00	21,110.00	173,000.00
Dec 1, 2020	173,000.00		2,595.00		2,595.00		173,000.00
Jun 1, 2021	173,000.00	15,000.00	2,595.00	432.50	18,027.50	20,622.50	158,000.00
Dec 1, 2021	158,000.00		2,370.00		2,370.00		158,000.00
Jun 1, 2022	158,000.00	15,000.00	2,370.00	395.00	17,765.00	20,135.00	143,000.00
Dec 1, 2022	143,000.00		2,145.00		2,145.00		143,000.00
Jun 1, 2023	143,000.00	16,000.00	2,145.00	357.50	18,502.50	20,647.50	127,000.00
Dec 1, 2023	127,000.00		1,905.00		1,905.00		127,000.00
Jun 1, 2024	127,000.00	16,000.00	1,905.00	317.50	18,222.50	20,127.50	111,000.00
Dec 1, 2024	111,000.00		1,665.00		1,665.00		111,000.00
Jun 1, 2025	111,000.00	17,000.00	1,665.00	277.50	18,942.50	20,607.50	94,000.00
Dec 1, 2025	94,000.00		1,410.00		1,410.00		94,000.00
Jun 1, 2026	94,000.00	18,000.00	1,410.00	235.00	19,645.00	21,055.00	76,000.00
Dec 1, 2026	76,000.00		1,140.00		1,140.00		76,000.00
Jun 1, 2027	76,000.00	18,000.00	1,140.00	190.00	19,330.00	20,470.00	58,000.00
Dec 1, 2027	58,000.00		870.00		870.00		58,000.00
Jun 1, 2028	58,000.00	19,000.00	870.00	145.00	20,015.00	20,885.00	39,000.00
Dec 1, 2028	39,000.00		585.00		585.00		39,000.00
Jun 1, 2029	39,000.00	19,000.00	585.00	97.50	19,682.50	20,267.50	20,000.00
Dec 1, 2029	20,000.00		300.00		300.00		20,000.00
Jun 1, 2030	20,000.00	20,000.00	300.00	50.00	20,350.00	20,650.00	0.00

EXHIBIT "A"

# Estimated Amortization Schedule

City of Council Bluffs

CWSRF

Sewer Revenue Bond

CS-192481-01



**SRF**  
STATE  
REVOLVING FUND

## Loan summary

Loan Closing Date	Feb 17, 2010
Final Maturity Date	Jun 1, 2030
Loan period in years	20.0
Total Loan Amount Requested	\$ 75,000.00
Less: 1% Initiation Fee	
Net Proceeds to Borrower	\$ 75,000.00
Annual interest rate	3.00%
Total interest	\$ 26,953.75
Servicing Fee rate	0.25%
Total Servicing Fees	\$ 2,417.50
Total Loan Costs	\$ 29,371.25

## Estimated Draw Schedule

Initiation Fee -	Feb 17, 2010	-
P&D Payback-	Feb 17, 2010	-
Estimated Draw -	Mar 5, 2010	25,000.00
Estimated Draw -	Apr 30, 2010	25,000.00
Estimated Draw -	Jun 25, 2010	25,000.00
Estimated Draw -	Aug 20, 2010	
Estimated Draw -	Oct 15, 2010	
Estimated Draw -	Dec 10, 2010	
Total Draw Amount		75,000.00

Note: If the requirements of ARRA are not met and this loan is not forgiven; additional loan cost from between the time of loan closing and 6/1/11 will be added to the Final Amortization Schedule. Estimated amounts: Initiation Fee - \$750.00; Interest - \$1,318.75, Servicing Fee - \$187.50.

Payment Date	Beginning Balance	Principal	Interest	Servicing Fee	Total Loan Payment	Total Annual Debt Service	Ending Balance
Jun 1, 2011	75,000.00	1,000.00	1,125.00	187.50	2,312.50	2,312.50	74,000.00
Dec 1, 2011	74,000.00		1,110.00		1,110.00		74,000.00
Jun 1, 2012	74,000.00	3,000.00	1,110.00	185.00	4,295.00	5,405.00	71,000.00
Dec 1, 2012	71,000.00		1,065.00		1,065.00		71,000.00
Jun 1, 2013	71,000.00	3,000.00	1,065.00	177.50	4,242.50	5,307.50	68,000.00
Dec 1, 2013	68,000.00		1,020.00		1,020.00		68,000.00
Jun 1, 2014	68,000.00	3,000.00	1,020.00	170.00	4,190.00	5,210.00	65,000.00
Dec 1, 2014	65,000.00		975.00		975.00		65,000.00
Jun 1, 2015	65,000.00	3,000.00	975.00	162.50	4,137.50	5,112.50	62,000.00
Dec 1, 2015	62,000.00		930.00		930.00		62,000.00
Jun 1, 2016	62,000.00	3,000.00	930.00	155.00	4,085.00	5,015.00	59,000.00
Dec 1, 2016	59,000.00		885.00		885.00		59,000.00
Jun 1, 2017	59,000.00	3,000.00	885.00	147.50	4,032.50	4,917.50	56,000.00
Dec 1, 2017	56,000.00		840.00		840.00		56,000.00
Jun 1, 2018	56,000.00	3,000.00	840.00	140.00	3,980.00	4,820.00	53,000.00
Dec 1, 2018	53,000.00		795.00		795.00		53,000.00
Jun 1, 2019	53,000.00	4,000.00	795.00	132.50	4,927.50	5,722.50	49,000.00
Dec 1, 2019	49,000.00		735.00		735.00		49,000.00
Jun 1, 2020	49,000.00	4,000.00	735.00	122.50	4,857.50	5,592.50	45,000.00
Dec 1, 2020	45,000.00		675.00		675.00		45,000.00
Jun 1, 2021	45,000.00	4,000.00	675.00	112.50	4,787.50	5,462.50	41,000.00
Dec 1, 2021	41,000.00		615.00		615.00		41,000.00
Jun 1, 2022	41,000.00	4,000.00	615.00	102.50	4,717.50	5,332.50	37,000.00
Dec 1, 2022	37,000.00		555.00		555.00		37,000.00
Jun 1, 2023	37,000.00	4,000.00	555.00	92.50	4,647.50	5,202.50	33,000.00
Dec 1, 2023	33,000.00		495.00		495.00		33,000.00
Jun 1, 2024	33,000.00	4,000.00	495.00	82.50	4,577.50	5,072.50	29,000.00
Dec 1, 2024	29,000.00		435.00		435.00		29,000.00
Jun 1, 2025	29,000.00	4,000.00	435.00	72.50	4,507.50	4,942.50	25,000.00
Dec 1, 2025	25,000.00		375.00		375.00		25,000.00
Jun 1, 2026	25,000.00	5,000.00	375.00	62.50	5,437.50	5,812.50	20,000.00
Dec 1, 2026	20,000.00		300.00		300.00		20,000.00
Jun 1, 2027	20,000.00	5,000.00	300.00	50.00	5,350.00	5,650.00	15,000.00
Dec 1, 2027	15,000.00		225.00		225.00		15,000.00
Jun 1, 2028	15,000.00	5,000.00	225.00	37.50	5,262.50	5,487.50	10,000.00
Dec 1, 2028	10,000.00		150.00		150.00		10,000.00
Jun 1, 2029	10,000.00	5,000.00	150.00	25.00	5,175.00	5,325.00	5,000.00
Dec 1, 2029	5,000.00		75.00		75.00		5,000.00
Jun 1, 2030	5,000.00	5,000.00	75.00	12.50	5,087.50	5,162.50	0.00

EXHIBIT "A"

6.M.

To: Mayor Thomas P. Hanafan  
Members of the City Council

From: Arthur W. Hill  
Finance Director

Date: January 20, 2010

RE: Final Debt Instruments  
Waste Water Treatment Plant – Sewer Revenue Capital Loan Notes (\$945,000)  
East Manawa Porous Paving – Sewer Revenue Capital Loan Notes (\$375,000)

The City of Council Bluffs had prepared a “Green Project” grant application with the Iowa Finance Authority for costs associated with the wastewater treatment plant. In addition The City of Council Bluffs had prepared a “Green Project” grant application with the Iowa Finance Authority for phase II of the East Manawa Project.

These applications contained provisions that called for 80% of the projects’ costs to become an obligations of the city, with 20% the projects costs becoming a forgivable loan – in essence a grant.

The debt instruments for the obligation portions of these projects are ion the form of sewer revenue capital loan notes.

You authorized city officials to move forward with the projects and applications at the November 23, 2009 meeting. We are now seeking final authorizations in connection with both applications.

We are requesting that the council grant all approvals included in the attached documentation.

**ORIGINAL**

(This Notice to be posted)

NOTICE AND CALL OF PUBLIC MEETING

Governmental Body: The City Council of the City of Council Bluffs, Iowa.

Date of Meeting: January 25, 2010.

Time of Meeting: \_\_\_\_\_ o'clock \_\_\_\_ M.

Place of Meeting: Council Chambers, City Hall, 209 Pearl Street, Council Bluffs, Iowa.

PUBLIC NOTICE IS HEREBY GIVEN that the above mentioned governmental body will meet at the date, time and place above set out. The tentative agenda for said meeting is as follows:

\$945,000 Sewer Revenue Capital Loan Notes, Series 2010.

- Approve form of Tax Exemption Certificate.
- Resolution approving and authorizing the form of Loan and Disbursement Agreements by and between the City of Council Bluffs and the Iowa Finance Authority, and authorizing and providing for the issuance and securing the payment of \$945,000 Sewer Revenue Capital Loan Notes, Series 2010, of the City of Council Bluffs, Iowa, under the provisions of the Code of Iowa, and providing for a method of payment of said Notes.

Such additional matters as are set forth on the additional \_\_\_\_\_ page(s) attached hereto. (number)

This notice is given at the direction of the Mayor pursuant to Chapter 21, Code of Iowa, and the local rules of said governmental body.

\_\_\_\_\_  
Clerk, Council Bluffs, Iowa

January 25, 2010

The City Council of the City of Council Bluffs, Iowa, met in \_\_\_\_\_ session,  
in the Council Chambers, City Hall, 209 Pearl Street, Council Bluffs, Iowa, at  
\_\_\_\_\_ o'clock \_\_\_\_\_ M., on the above date. There were present Mayor  
\_\_\_\_\_, in the chair, and the following named Council  
Members:

\_\_\_\_\_

\_\_\_\_\_

Absent: \_\_\_\_\_

\* \* \* \* \*



Council Member \_\_\_\_\_ moved that the form of Tax Exemption Certificate and Loan and Disbursement Agreements be placed on file and approved. Council Member \_\_\_\_\_ seconded the motion and the roll being called thereon, the vote was as follows:

AYES: \_\_\_\_\_

\_\_\_\_\_

NAYS: \_\_\_\_\_

Council Member \_\_\_\_\_ introduced the following Resolution entitled "A RESOLUTION APPROVING AND AUTHORIZING THE FORM OF LOAN AND DISBURSEMENT AGREEMENTS BY AND BETWEEN THE CITY OF COUNCIL BLUFFS AND THE IOWA FINANCE AUTHORITY, AND AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND SECURING THE PAYMENT OF \$945,000 SEWER REVENUE CAPITAL LOAN NOTES, SERIES 2010, OF THE CITY OF COUNCIL BLUFFS, IOWA, UNDER THE PROVISIONS OF THE CODE OF IOWA, AND PROVIDING FOR A METHOD OF PAYMENT OF SAID NOTES", and moved its adoption. Council Member \_\_\_\_\_ seconded the motion to adopt. The roll was called and the vote was:

AYES: \_\_\_\_\_

\_\_\_\_\_

NAYS: \_\_\_\_\_

Whereupon the Mayor declared the following Resolution duly adopted:

Resolution No. \_\_\_\_\_

A RESOLUTION APPROVING AND AUTHORIZING THE FORM OF LOAN AND DISBURSEMENT AGREEMENTS BY AND BETWEEN THE CITY OF COUNCIL BLUFFS AND THE IOWA FINANCE AUTHORITY, AND AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND SECURING THE PAYMENT OF \$945,000 SEWER REVENUE CAPITAL LOAN NOTES, SERIES 2010, OF THE CITY OF COUNCIL BLUFFS, IOWA, UNDER THE PROVISIONS OF THE CODE OF IOWA, AND PROVIDING FOR A METHOD OF PAYMENT OF SAID NOTES

WHEREAS, the City Council of the City of Council Bluffs, Iowa, sometimes hereinafter referred to as the "Issuer", has heretofore established charges, rates and rentals for services which are and will continue to be collected as system revenues of the municipal sewer system, sometimes hereinafter referred to as the "System", and said revenues have not been pledged and are available for the payment of Sewer Revenue Capital Loan Notes, Series 2010, subject to the following premises; and

WHEREAS, Issuer proposes to issue its Sewer Revenue Capital Loan Notes, Series 2010, to the extent of \$945,000, for the purpose of defraying the costs of the Project as set forth in Section 1 of this Resolution; and, it is deemed necessary and advisable and in the best interests of the Issuer that the form of Loan and Disbursement Agreements by and between the Issuer and the Iowa Finance Authority, be approved and authorized; and

WHEREAS, pursuant to the American Recovery and Reinvestment Act of 2009 ("ARRA"), and in accordance with the terms of the Forgivable Loan and Disbursement Agreement, the Iowa Finance Authority has authority to make and desires to make a forgivable loan to the City in the amount of \$188,000, from funds available to the Iowa Finance Authority under the ARRA, for the purpose of assisting in financing a portion of the Project (defined herein); and

WHEREAS, the notice of intention of Issuer to take action for the issuance of \$945,000 Sewer Revenue Capital Loan Notes, Series 2010, has heretofore been duly published and no objections to such proposed action have been filed.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS, IN THE COUNTY OF POTTAWATTAMIE, STATE OF IOWA:

Section 1. Definitions. The following terms shall have the following meanings in this Resolution unless the text expressly or by necessary implication requires otherwise:

- "Additional Bonds" shall mean any sewer revenue bonds or notes or other obligations issued on a parity with the Notes in accordance with the provisions of Section 22 hereof. Provided, however, Additional Bonds which are SRF Obligations shall not be secured by a Reserve Fund and shall not be subject to a Reserve Fund Requirement.
- "Agreements" shall mean the Loan and Disbursement Agreement and the Forgivable Loan and Disbursement Agreement, both dated as of the Closing between the City and the Original Purchaser, relating to the Loan made to the City under the Program;
- "Closing" shall mean the date of delivery of the Notes to the Original Purchaser and the funding of the Loan by the Trustee;
- "Corporate Seal" shall mean the official seal of Issuer adopted by the Governing Body;
- "Fiscal Year" shall mean the twelve months' period beginning on July 1 of each year and ending on the last day of June of the following year, or any other consecutive twelve-month period adopted by the Governing Body or by law as the official accounting period of the System; provided, that the requirements of a fiscal year as expressed in this Resolution shall exclude any payment of principal or interest falling due on the first day of the fiscal year and include any payment of principal or interest falling due on the first day of the succeeding fiscal year;
- "Governing Body" shall mean the City Council of the City, or its successor in function with respect to the operation and control of the System;
- "Independent Auditor" shall mean an independent firm of certified public accountants or the Auditor of State;
- "Issuer" and "City" shall mean the City of Council Bluffs, Iowa;

- "Loan" shall mean the principal amount allocated by the Original Purchaser to the City under the Program, equal in amount to the principal amount of the Notes;

- "Net Revenues" shall mean gross earnings of the System after deduction of Current Expenses; "Current Expenses" shall mean and include the reasonable and necessary cost of operating, maintaining, repairing and insuring the System, including purchases at wholesale, if any, salaries, wages, and costs of materials and supplies, but excluding depreciation and principal of and interest on the Notes and any Parity Obligations or payments to the various funds established herein; capital costs, depreciation and interest or principal payments are not System expenses;

- "Notes" or "Note" shall mean \$945,000 Sewer Revenue Capital Loan Notes, Series 2010, authorized to be issued by this Resolution;

- "Original Purchaser" shall mean the Iowa Finance Authority, as the purchaser of the Notes from Issuer at the time of their original issuance;

- "Parity Obligations" shall mean notes or bonds payable solely from the Net Revenues of the System on an equal basis with the Notes herein authorized to be issued, and shall include Additional Bonds as authorized to be issued under the terms of this Resolution;

- "Paying Agent" shall be the Finance Director, or such successor as may be approved by Issuer as provided herein and who shall carry out the duties prescribed herein as Issuer's agent to provide for the payment of principal of and interest on the Notes as the same shall become due;

- "Permitted Investments" shall mean any investments permitted in Iowa Code chapter 12B or section 12C.9. All interim investments must mature before the date on which the moneys are required for payment of principal and interest on the Notes or project costs;

- "Program" shall mean the Iowa Water Pollution Control Works Financing Program undertaken by the Original Purchaser;

- "Project" shall mean the costs of acquisition, construction, reconstruction, extending, remodeling, improving, repairing and equipping of the System;

▪ "Project Fund" shall mean the Loan Account maintained by the Trustee under the Program for the benefit of the Issuer, into which the proceeds of the Loan and the Notes shall be allocated and held until disbursed to pay Project costs;

▪ "Rebate Fund" shall mean the fund so defined in and established pursuant to the Tax Exemption Certificate;

▪ "Registrar" shall mean the Finance Director, or such successor as may be approved by Issuer as provided herein and who shall carry out the duties prescribed herein with respect to maintaining a register of the owners of the Notes. Unless otherwise specified, the Registrar shall also act as Transfer Agent for the Notes;

▪ "SRF Obligations" shall mean bonds, notes or other obligations as may be issued in connection with the Issuer's participation in the Iowa Water Pollution Control Works Financing Program administered by the Iowa Finance Authority and Iowa Department of Natural Resources, including capitalization grants which are eligible for loan forgiveness and funded pursuant to and subject to requirements under the American Recovery and Reinvestment Act of 2009, which SRF Obligations may be Senior SRF Obligations or subordinate SRF Obligations.

▪ "System" shall mean the municipal sewer system utility of the Issuer and all properties of every nature hereinafter owned by the Issuer comprising part of or used as a part of the System, including all wastewater treatment facilities, sanitary sewers, force mains, pumping stations and all related property and improvements and extensions made by Issuer while any of the Notes or Parity Obligations remain outstanding; all real and personal property; and all appurtenances, contracts, leases, franchises and other intangibles;

▪ "Tax Exemption Certificate" shall mean the Tax Exemption Certificate executed by the Treasurer and delivered at the time of issuance and delivery of the Notes; and

▪ "Treasurer" shall mean the Finance Director or such other officer as shall succeed to the same duties and responsibilities with respect to the recording and payment of the Notes issued hereunder.

▪ "Trustee" shall mean Wells Fargo Bank, National Association, with its principal office located in the City of Des Moines, Iowa, and its successors and

any corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party and any successor trustee under the Program.

▪ "Yield Restricted" shall mean required to be invested at a yield that is not materially higher than the yield on the Notes under Section 148(a) of the Internal Revenue Code or regulations issued thereunder.

Section 2. Authority. The Agreements and the Notes authorized by this Resolution shall be issued pursuant to Sections 384.24A and 384.82 of the Code of Iowa, and in compliance with all applicable provisions of the Constitution and laws of the State of Iowa. The Agreements shall be substantially in the form attached to this Resolution and are authorized to be executed and issued on behalf of the Issuer by the Mayor and attested by the Clerk.

Section 3. Authorization and Purpose. There are hereby authorized to be issued, negotiable, serial, fully registered Revenue Notes of the City of Council Bluffs, in the County of Pottawattamie, State of Iowa, each to be designated as "Sewer Revenue Capital Loan Note, Series 2010", in the aggregate amount of \$945,000, for the purpose of paying costs of the Project. The City Council, pursuant to Sections 384.24A and 384.82 of the Code of Iowa, hereby finds and determines that it is necessary and advisable to issue said Notes authorized by the Agreement and this Resolution.

Section 4. Source of Payment. The Notes herein authorized and Parity Obligations and the interest thereon shall be payable solely and only out of the net earnings of the System and shall be a first lien on the future Net Revenues of the System. The Notes shall not be general obligations of the Issuer nor shall they be payable in any manner by taxation and the Issuer shall be in no manner liable by reason of the failure of the said Net Revenues to be sufficient for the payment of the Notes.

Section 5. Note Details. Sewer Revenue Capital Loan Notes, Series 2010, of the Issuer in the amount of \$945,000, shall be issued to evidence the obligations of the Issuer under the Agreement pursuant to the provisions of Sections 384.24A and 384.82 of the Code of Iowa for the aforesaid purpose. The Notes shall be designated "SEWER REVENUE CAPITAL LOAN NOTE, SERIES 2010", be dated the date of delivery, and bear interest at the rate of 3.0% per annum from the date of each advancement made under the Agreement, until payment thereof, at the office of the Paying Agent, said interest payable on June 1, 2010 on the \$757,000 issue and on June 1, 2011 on the \$188,000 issue, and semiannually thereafter on the 1st day of June and December in each year until maturity as set forth on the Debt Service Schedules attached to the Agreements as Exhibit A and incorporated herein by this reference. As set forth on said Debt Service Schedules, principal shall be payable on June 1, 2011 and annually thereafter on the 1st

day of June in the amounts set forth therein until principal and interest are fully paid, except that the final installment of the entire balance of principal and interest, if not sooner paid, shall become due and payable on June 1, 2030. Notwithstanding the foregoing or any other provision hereof, principal and interest shall be payable as shown on said Debt Service Schedules until completion of the Project, at which time the final Debt Service Schedules shall be determined by the Trustee based upon actual advancements, final costs and completion of the Project, all as provided in the administrative rules governing the Program. Payment of principal and interest on the Notes shall at all times conform to said Debt Service Schedules and the rules of the Program.

The Notes shall be executed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the Clerk, and impressed or imprinted with the seal of the City and shall be fully registered as to both principal and interest as provided in this Resolution; principal, interest and premium, if any, shall be payable at the office of the Paying Agent by mailing of a check, wire transfer or automated clearing house system transfer to the registered owner of the Note. The Notes may be in the denomination of \$1,000 or multiples thereof and shall at the request of the Original Purchaser be initially issued in Notes in the respective denominations of \$757,000 numbered R-1 and \$188,000 numbered R-2.

Section 6. Initiation Fee and Servicing Fee. In addition to the payment of principal of and interest on the Notes, the Issuer also agrees to pay the Initiation Fee and the Servicing Fee as defined and in accordance with the terms of the Agreements.

Section 7. Forgivable Loan. Notwithstanding Sections 5 and 6 to the contrary, with regard to Note R-2, provided that the Issuer proceeds with diligence to completion of the Project and complies with all applicable ARRA requirements as fully set forth in section 14 of the Forgivable Loan and Disbursement Agreement (the "Forgivable Loan"), (i) no payments of interest, principal, Servicing Fee or Initiation Fee shall be due under the Forgivable Loan during construction of the Project and (ii) following completion of the Project and receipt by the Iowa Finance Authority of a certificate of completion from the Issuer, the Forgivable Loan shall be forgiven, in full, by the Iowa Finance Authority, and no payments of principal or interest shall be due under the Forgivable Loan and Disbursement Agreement.

Section 8. Redemption. The Notes are subject to optional redemption at a price of par plus accrued interest (i) on any date upon receipt of written consent of the Original Purchaser or (ii) in the event that all or substantially all of the Project is damaged or destroyed. Any optional redemption of the Notes may be made from any funds regardless of source, in whole or from time to time in part, in inverse order of maturity, by giving

not less than thirty (30) days notice of redemption by certified or registered mail to the Original Purchaser (or any other registered owner of the Notes). The terms of redemption shall be par, plus accrued interest to date of call. The Notes are also subject to mandatory redemption as set forth in Section 5 of the Agreements.

Section 9. Registration of Notes; Appointment of Registrar; Transfer; Ownership; Delivery; and Cancellation.

(a) Registration. The ownership of Notes may be transferred only by the making of an entry upon the books kept for the registration and transfer of ownership of the Notes, and in no other way. The Finance Director is hereby appointed as Note Registrar under the terms of this Resolution. Registrar shall maintain the books of the Issuer for the registration of ownership of the Notes for the payment of principal of and interest on the Notes as provided in this Resolution. All Notes shall be negotiable as provided in Article 8 of the Uniform Commercial Code subject to the provisions for registration and transfer contained in the Notes and in this Resolution.

(b) Transfer. The ownership of any Note may be transferred only upon the Registration Books kept for the registration and transfer of Notes and only upon surrender thereof at the office of the Registrar together with an assignment duly executed by the holder or his duly authorized attorney in fact in such form as shall be satisfactory to the Registrar, along with the address and social security number or federal employer identification number of such transferee (or, if registration is to be made in the name of multiple individuals, of all such transferees). In the event that the address of the registered owner of a Note (other than a registered owner which is the nominee of the broker or dealer in question) is that of a broker or dealer, there must be disclosed on the Registration Books the information pertaining to the registered owner required above. Upon the transfer of any such Note, a new fully registered Note, of any denomination or denominations permitted by this Resolution in aggregate principal amount equal to the unmatured and unredeemed principal amount of such transferred fully registered Note, and bearing interest at the same rate and maturing on the same date or dates shall be delivered by the Registrar.

(c) Registration of Transferred Notes. In all cases of the transfer of the Notes, the Registrar shall register, at the earliest practicable time, on the Registration Books, the Notes, in accordance with the provisions of this Resolution.



(d) Ownership. As to any Note, the person in whose name the ownership of the same shall be registered on the Registration Books of the Registrar shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of any such Notes and the premium, if any, and interest thereon shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note, including the interest thereon, to the extent of the sum or sums so paid.

(e) Cancellation. All Notes which have been redeemed shall not be reissued but shall be cancelled by the Registrar. All Notes which are cancelled by the Registrar shall be destroyed and a Certificate of the destruction thereof shall be furnished promptly to the Issuer; provided that if the Issuer shall so direct, the Registrar shall forward the cancelled Notes to the Issuer.

(f) Non-Presentation of Notes. In the event any payment check representing payment of principal of or interest on the Notes is returned to the Paying Agent or if any Note is not presented for payment of principal at the maturity or redemption date, if funds sufficient to pay such principal of or interest on Notes shall have been made available to the Paying Agent for the benefit of the owner thereof, all liability of the Issuer to the owner thereof for such interest or payment of such Notes shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the owner of such Notes who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Resolution or on, or with respect to, such interest or Notes. The Paying Agent's obligation to hold such funds shall continue for a period equal to two years and six months following the date on which such interest or principal became due, whether at maturity, or at the date fixed for redemption thereof, or otherwise, at which time the Paying Agent, shall surrender any remaining funds so held to the Issuer, whereupon any claim under this Resolution by the Owners of such interest or Notes of whatever nature shall be made upon the Issuer.

Section 10. Reissuance of Mutilated, Destroyed, Stolen or Lost Notes. In case any outstanding Note shall become mutilated or be destroyed, stolen or lost, the Issuer shall at the request of Registrar authenticate and deliver a new Note of like tenor and amount as the Note so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Note to Registrar, upon surrender of such mutilated Note, or in lieu of and substitution for the Note destroyed, stolen or lost, upon filing with the Registrar evidence satisfactory to the Registrar and Issuer that such Note has been destroyed, stolen

or lost and proof of ownership thereof, and upon furnishing the Registrar and Issuer with satisfactory indemnity and complying with such other reasonable regulations as the Issuer or its agent may prescribe and paying such expenses as the Issuer may incur in connection therewith.

Section 11. Record Date. Payments of principal and interest, otherwise than upon full redemption, made in respect of any Note, shall be made to the registered holder thereof or to their designated Agent as the same appear on the books of the Registrar on the 15th day of the month preceding the payment date. All such payments shall fully discharge the obligations of the Issuer in respect of such Notes to the extent of the payments so made.

Section 12. Execution, Authentication and Delivery of the Notes. Upon the adoption of this Resolution, the Mayor and Clerk shall execute and deliver the Notes to the Registrar, who shall authenticate the Notes and deliver the same to or upon order of the Original Purchaser. No Note shall be valid or obligatory for any purpose or shall be entitled to any right or benefit hereunder unless the Registrar shall duly endorse and execute on such Note a Certificate of Authentication substantially in the form of the Certificate herein set forth. Such Certificate upon any Note executed on behalf of the Issuer shall be conclusive evidence that the Note so authenticated has been duly issued under this Resolution and that the holder thereof is entitled to the benefits of this Resolution.

Section 13. Right to Name Substitute Paying Agent or Registrar. Issuer reserves the right to name a substitute, successor Registrar or Paying Agent upon giving prompt written notice to each registered noteholder.

Section 14. Form of Note. Notes shall be printed in substantial compliance with standards proposed by the American Standards Institute substantially in the form as follows:

(6)		(6)	
(7)		(8)	
(1)			
(2)	(3)	(4)	(5)
(9)			
(9a)			
(10) (Continued on the back of this Bond)			
(11)(12)(13)	(14)	(15)	

FIGURE 1  
(Front)

(10) (Continued)		(16)

FIGURE 2  
(Back)

The text of the Notes to be located thereon at the item numbers shown shall be as follows:

Item 1, figure 1 = "STATE OF IOWA"  
"COUNTY OF POTTAWATTAMIE"  
"CITY OF COUNCIL BLUFFS"  
"SEWER REVENUE CAPITAL LOAN NOTE"  
"SERIES 2010"

Item 2, figure 1 = Rate: \_\_\_\_\_ %  
Item 3, figure 1 = Final Maturity: \_\_\_\_\_  
Item 4, figure 1 = Note Date: \_\_\_\_\_  
Item 5, figure 1 = CUSIP # \_\_\_\_\_  
Item 6, figure 1 = "Registered"  
Item 7, figure 1 = Certificate No. R-\_\_\_\_  
Item 8, figure 1 = Principal Amount: \$ \_\_\_\_\_

Item 9, figure 1 = The City of Council Bluffs, Iowa, a municipal corporation organized and existing under and by virtue of the Constitution and laws of the State of Iowa (the "Issuer"), for value received, promises to pay from the source and as hereinafter provided, to

#### IOWA FINANCE AUTHORITY

Item 10, figure 1 = or registered assigns, the principal sum of (principal amount written out) in lawful money of the United States of America, on the maturity dates and in the principal amounts set forth on the Debt Service Schedule attached hereto and incorporated herein by this reference, with interest on said sum from the date of each advancement made under a certain Loan and Disbursement Agreement [*Option for Note R-2: Forgivable Loan and Disbursement Agreement*], dated as of the date hereof until paid at the rate of 3.0% per annum, payable on \_\_\_\_\_, 20\_\_\_\_, and semiannually thereafter on the 1st day of June and December in each year. As set forth on said Debt Service Schedule, principal shall be payable on June 1, 2011 and annually thereafter on the first day of June in the amounts set forth therein until principal and interest are fully paid, except that the final installment of the entire balance of principal and interest, if not sooner paid, shall become due and payable on June 1, 2030. Notwithstanding the foregoing or any other provision hereof, principal and interest shall be payable as shown on said Debt Service Schedule until completion of the Project, at which time the final Debt Service Schedule shall be determined by the Trustee and attached hereto based upon actual advancements, final costs and completion of the Project, all as provided in the administrative rules governing the Iowa Water Pollution

Control Works Financing Program. Payment of principal and interest of this Note shall at all times conform to said Debt Service Schedule and the rules of the Iowa Water Pollution Control Works Financing Program.

Interest and principal shall be paid to the registered holder of the Note as shown on the records of ownership maintained by the Registrar as of the 15th day of the month next preceding such interest payment date. Interest shall be computed on the basis of a 360-day year of twelve 30-day months.

This Note is issued pursuant to the provisions of Sections 384.24A and 384.83 of the Code of Iowa, for the purpose of paying costs of acquisition, construction, reconstruction, extending, remodeling, improving, repairing and equipping all or part of the System, and evidences amounts payable under a certain *[Loan and Disbursement Agreement] [Option for Note R-2: Forgivable Loan and Disbursement Agreement]*, dated as of the date hereof, in conformity to a Resolution of the City Council of said City duly passed and approved. For a complete statement of the revenues and funds from which and the conditions under which this Note is payable, a statement of the conditions under which additional notes or bonds of equal standing may be issued, and the general covenants and provisions pursuant to which this Note is issued, reference is made to the above-described Loan and Disbursement Agreements and Resolution.

This Note is subject to optional redemption at a price of par plus accrued interest (i) on any date upon receipt of written consent of the Iowa Finance Authority or (ii) in the event that all or substantially all of the Project is damaged or destroyed. Any optional redemption of this Note may be made from any funds regardless of source, in whole or from time to time in part, in inverse order of maturity, by lot by giving thirty (30) days notice of redemption by certified or registered mail, to the Iowa Finance Authority (or any other registered owner of the Note). This Note is also subject to mandatory redemption as set forth in Section 5 of the Agreements.

Ownership of this Note may be transferred only by transfer upon the books kept for such purpose by the Finance Director, Council Bluffs, Iowa, the Registrar. Such transfer on the books shall occur only upon presentation and surrender of this Note at the office of the Registrar, together with an assignment duly executed by the owner hereof or his duly authorized attorney in the form as shall be satisfactory to the Registrar. Issuer reserves the right to substitute the Registrar and Paying Agent but shall, however, promptly give notice to registered Noteholders of such change. All Notes shall be negotiable as provided in Article 8 of the Uniform Commercial Code and subject to the provisions for registration and transfer contained in the Note Resolution.

This Note and the series of which it forms a part, and any additional obligations

which may be hereafter issued and outstanding from time to time on a parity with said Notes, as provided in the Resolution and Loan and Disbursement Agreements of which notice is hereby given and which are hereby made a part hereof, are payable from and secured by a pledge of the net revenues of the municipal sewer system utility (the "System"), as defined and provided in said Resolution. There has heretofore been established and the City covenants and agrees that it will maintain just and equitable rates or charges for the use of and service rendered by said System in each year for the payment of the proper and reasonable expenses of operation and maintenance of said System and for the establishment of a sufficient sinking fund to meet the principal of and interest on this series of Notes, and other obligations ranking on a parity therewith, as the same become due. This Note is not payable in any manner by taxation and under no circumstances shall the City be in any manner liable by reason of the failure of said net earnings to be sufficient for the payment hereof.

And it is hereby represented and certified that all acts, conditions and things requisite, according to the laws and Constitution of the State of Iowa, to exist, to be had, to be done, or to be performed precedent to the lawful issue of this Note, have been existent, had, done and performed as required by law.

IN TESTIMONY WHEREOF, said City by its City Council has caused this Note to be signed by the manual signature of its Mayor and attested by the manual signature of its Clerk, with the seal of said City impressed hereon, and authenticated by the manual signature of an authorized representative of the Registrar, the Finance Director of Council Bluffs, Iowa, all as of the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Item 11, figure 1 = Date of Authentication:

Item 12, figure 1 = This is one of the Notes described in the within mentioned Resolution, as registered by the Finance Director.

FINANCE DIRECTOR

By: \_\_\_\_\_  
Registrar

Item 13, figure 1 = Registrar and Transfer Agent: Finance Director  
Paying Agent: Finance Director

Item 14, figure 1 = (Seal)

Item 15, figure 1 = [Signature Block]

CITY OF COUNCIL BLUFFS, IOWA

By: \_\_\_\_\_ (manual signature)  
Mayor

Attest: \_\_\_\_\_ (manual signature)  
Clerk

Item 17, figure 2 = [Assignment Block]  
[Information Required for Registration]

### ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ (Social Security or Tax Identification No. \_\_\_\_\_) the within Note and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney in fact to transfer the said Note on the books kept for registration of the within Note, with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Person(s) executing this Assignment sign(s) here)

SIGNATURE )  
GUARANTEED) \_\_\_\_\_

### IMPORTANT - READ CAREFULLY

The signature(s) to this Power must correspond with the name(s) as written upon the face of the Certificate(s) or Note(s) in every particular without alteration or enlargement or any change whatever. Signature guarantee must be provided in accordance with the prevailing standards and procedures of the Registrar and Transfer Agent. Such standards and procedures may require signature to be guaranteed by certain eligible guarantor institutions that participate in a recognized signature guarantee program.

### INFORMATION REQUIRED FOR REGISTRATION OF TRANSFER

Name of Transferee(s) \_\_\_\_\_  
Address of Transferee(s) \_\_\_\_\_



Social Security or Tax  
Identification Number of  
Transferee(s) \_\_\_\_\_  
Transferee is a(n):  
Individual\* \_\_\_\_\_ Corporation \_\_\_\_\_  
Partnership \_\_\_\_\_ Trust \_\_\_\_\_

\*If the Note is to be registered in the names of multiple individual owners, the names of all such owners and one address and social security number must be provided.

The following abbreviations, when used in the inscription on the face of this Note, shall be construed as though written out in full according to applicable laws or regulations:

TEN COM - as tenants in common

TEN ENT - as tenants by the entireties

JT TEN - as joint tenants with right of survivorship and not as tenants in common

IA UNIF TRANS MIN ACT - .....Custodian.....

(Cust) (Minor)  
under Iowa Uniform Transfers  
to Minors Act.....  
(State)

Section 15. Equality of Lien. The timely payment of principal of and interest on the Notes and Parity Obligations shall be secured equally and ratably by the revenues of the System without priority by reason of number or time of sale or delivery; and the revenues of the System are hereby irrevocably pledged to the timely payment of both principal and interest as the same become due.

Section 16. Application of Note Proceeds - Project Fund. Proceeds of the Notes shall be credited to the Project Fund and expended therefrom for the purposes of issuance. Any amounts on hand in the Project Fund shall be available for the payment of the principal of or interest on the Notes at any time that other funds of the System shall be insufficient to the purpose, in which event such funds shall be repaid to the Project Fund at the earliest opportunity. Any balance on hand in the Project Fund and not immediately required for its purposes may be invested not inconsistent with limitations provided by law, the Internal Revenue Code and this Resolution.

Section 17. User Rates. There has heretofore been established and published as required by law, just and equitable rates or charges for the use of the service rendered by the System. Said rates or charges shall be paid by the owner of each and every lot, parcel

of real estate, or building that is connected with and uses the System, by or through any part of the System or that in any way uses or is served by the System.

Any revenue paid and collected for the use of the System and its services by the Issuer or any department, agency or instrumentality of the Issuer shall be used and accounted for in the same manner as any other revenues derived from the operations of the System.

Section 18. Application of Revenues. From and after the delivery of any Notes, and as long as any of the Notes or Parity Obligations shall be outstanding and unpaid either as to principal or as to interest, or until all of the Notes and Parity Obligations then outstanding shall have been discharged and satisfied in the manner provided in this Resolution, the entire income and revenues of the System shall be deposited as collected in a fund to be known as the Sewer Revenue Fund (the "Revenue Fund"), and shall be disbursed only as follows:

- Operation and Maintenance Fund. Money in the Revenue Fund shall first be disbursed to make deposits into a separate and special fund to pay current expenses. The fund shall be known as the Sewer Utility Operation and Maintenance Fund (the "Operation and Maintenance Fund"). There shall be deposited in the Operation and Maintenance Fund each month an amount sufficient to meet the current expenses of the month plus an amount equal to 1/12th of expenses payable on an annual basis such as insurance. After the first day of the month, further deposits may be made to this account from the Revenue Fund to the extent necessary to pay current expenses accrued and payable to the extent that funds are not available in the Surplus Fund.

- Sinking Fund. Money in the Revenue Fund shall next be disbursed to make deposits into a separate and special fund to pay principal of and interest on the Notes and Parity Obligations. The fund shall be known as the Sewer Revenue Note Principal and Interest Sinking Fund (the "Sinking Fund"). The required amount to be deposited in the Sinking Fund in any month shall be an amount equal to 1/6th of the installment of interest coming due on the next interest payment date on the then outstanding Notes and Parity Obligations, plus 1/12th of the installment of principal coming due on such Notes on the next succeeding principal payment date until the full amount of such installment is on hand. If for any reason the amount on hand in the Sinking Fund exceeds the required amount, the excess shall forthwith be withdrawn and paid into the Revenue Fund. Money in the Sinking Fund shall be used solely for the purpose of paying principal of and interest on the Notes and Parity Obligations as the same shall become due and payable.

- Subordinate Obligations. Money in the Revenue Fund may next be used to pay principal of and interest on (including reasonable reserves therefor) any other obligations which by their terms shall be payable from the revenues of the System, but subordinate to the Notes and Parity Obligations, and which have been issued for the purposes of extensions and improvements to the System or to retire the Notes or Parity Obligations in advance of maturity, or to pay for extraordinary repairs or replacements to the System.

- Surplus Revenue. All money thereafter remaining in the Revenue Fund at the close of each month may be deposited in any of the funds created by this Resolution, to pay for extraordinary repairs or replacements to the System, or may be used to pay or redeem the Notes or Parity Obligations, any of them, or for any lawful purpose.

Money in the Revenue Fund shall be allotted and paid into the various funds and accounts hereinbefore referred to in the order in which said funds are listed, on a cumulative basis on the 10th day of each month, or on the next succeeding business day when the 10th shall not be a business day; and if in any month the money in the Revenue Fund shall be insufficient to deposit or transfer the required amount in any of said funds or accounts, the deficiency shall be made up in the following month or months after payments into all funds and accounts enjoying a prior claim to the revenues shall have been met in full.

Section 19. Investments. Moneys on hand in the Project Fund and all of the funds provided by this Resolution may be invested only in Permitted Investments or deposited in financial institutions which are members of the Federal Deposit Insurance Corporation, or its equivalent successor, and the deposits of which are insured thereby and all such deposits exceeding the maximum amount insured from time to time by FDIC or its equivalent successor in any one financial institution shall be continuously secured in compliance with the State Sinking Fund provided under Iowa Code chapter 12C, or otherwise by a valid pledge of direct obligations of the United States Government having an equivalent market value. All investments shall mature before the date on which the moneys are required for the purposes for which the fund was created or otherwise as herein provided. The provisions of this Section shall not be construed to require the Issuer to maintain separate accounts for the funds created by this Section.

The Sinking Fund shall be segregated in a separate account but may be invested in the same manner as other funds of the Issuer but designated as a trust fund on the books and records of the Issuer. The Sinking Fund shall not be available for any other purposes other than those specified in this Resolution.

All income derived from such investments shall be deposited in the Revenue Fund and shall be regarded as revenues of the System. Investments shall at any time necessary be liquidated and the proceeds thereof applied to the purpose for which the respective fund was created.

Section 20. Covenants Regarding the Operation of the System. The Issuer hereby covenants and agrees with each and every holder of the Notes and Parity Obligations:

(a) Maintenance and Efficiency. The Issuer will maintain the System in good condition and operate it in an efficient manner and at reasonable cost.

(b) Sufficiency of Rates. On or before the beginning of each Fiscal Year the Governing Body will adopt or continue in effect rates for all services rendered by the System determined to be sufficient to produce Net Revenues for the next succeeding Fiscal Year which are (i) adequate to pay the principal and interest requirements thereof and to create or maintain the reserves as provided in this Resolution, and (ii) not less than 110 percent of the principal and interest requirements of the next succeeding Fiscal Year. No free use of the System by the Issuer or any department, agency or instrumentality of the Issuer shall be permitted except upon the determination of the Governing Body that the rates and changes otherwise in effect are sufficient to provide Net Revenues at least equal to the requirements of this subsection.

(c) Insurance. The Issuer shall maintain insurance for the benefit of the Noteholders on the insurable portions of the System of a kind and in an amount which normally would be carried by private companies engaged in a similar kind of business. The proceeds of any insurance, except public liability insurance, shall be used to repair or replace the part or parts of the System damaged or destroyed, or if not so used shall be placed in an improvement fund for the benefit of the System.

(d) Accounting and Audits. The Issuer will cause to be kept proper books and accounts adapted to the System and in accordance with generally accepted accounting practices and will diligently act to cause the books and accounts to be audited and reported upon by an Independent Auditor and will provide copies of the audit report to the Department, all as provided in the Agreement. The Original Purchaser and holders of any of the Notes and Parity Obligations shall have at all reasonable times the right to inspect the System and the records, accounts and data of the Issuer relating thereto.

(e) State Laws. The Issuer will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State of Iowa, including the making and collecting of reasonable and sufficient rates for services rendered by the System as above provided, and will segregate the revenues of the System and apply said revenues to the funds specified in this Resolution.

(f) Property. The Issuer will not sell, lease, mortgage or in any manner dispose of the System, or any capital part thereof, including any and all extensions and additions that may be made thereto, until satisfaction and discharge of all of the Notes and Parity Obligations shall have been provided for in the manner provided in this Resolution; provided, however, this covenant shall not be construed to prevent the disposal by the Issuer of property which in the judgment of its Governing Body has become inexpedient or unprofitable to use in connection with the System, or if it is to the advantage of the System that other property of equal or higher value be substituted therefor, and provided further that the proceeds of the disposition of such property shall be placed in a revolving fund to be used in preference to other sources for capital improvements to the System. Any such proceeds of the disposition of property acquired with the proceeds of the Notes or Parity Obligations shall not be used to pay principal or interest on the Notes and Parity Obligations or for payments into the Sinking.

(g) Fidelity Bond. That the Issuer shall maintain fidelity bond coverage in amounts which normally would be carried by private companies engaged in a similar kind of business on each officer or employee having custody of funds of the System.

(h) Additional Charges. The Issuer will require proper connecting charges and/or other security for the payment of service charges.

(i) Budget. The Governing Body of the Issuer shall approve and conduct operations pursuant to a system budget of revenues and current expenses for each Fiscal Year. Such budget shall take into account revenues and current expenses during the current and last preceding Fiscal Years. Copies of such budget and any amendments thereto shall be mailed to the Original Purchaser and to the Noteholders upon request.

(j) Loan and Disbursement Agreements. The Issuer will comply with the terms and conditions of the Loan and Disbursement Agreement and the Forgivable Loan and Disbursement Agreement and perform as provided thereunder.

Section 21. Remedies of Noteholders. Except as herein expressly limited the holder or holders of the Notes and Parity Obligations shall have and possess all the rights of action and remedies afforded by the common law, the Constitution and statutes of the State of Iowa, and of the United States of America, for the enforcement of payment of their Notes and interest thereon, and of the pledge of the revenues made hereunder, and of all covenants of the Issuer hereunder.

Section 22. Prior Lien and Parity Obligations. The Issuer will issue no other notes, bonds or obligations of any kind or nature payable from or enjoying a lien or claim on the property or revenues of the System having priority over the Notes or Parity Obligations.

Additional Bonds may be issued on a parity and equality of rank with the Notes with respect to the lien and claim of such additional obligations to the revenues of the System and the money on deposit in the funds adopted by this Resolution, for the following purposes and under the following conditions, but not otherwise:

(a) For the purpose of refunding any of the Notes or Parity Obligations which shall have matured or which shall mature not later than three months after the date of delivery of such refunding obligation and for the payment of which there shall be insufficient money in the Sinking Fund;

(b) For the purpose of making extensions, additions, improvements or replacements to the System, or refunding any outstanding Notes, Parity Obligations or other obligations issued for such extensions, additions and improvements, if all of the following conditions shall have been met:

(i) before any such Additional Bonds ranking on a parity are issued, there will have been procured and filed with the Clerk, a statement of an Independent Auditor or Independent Financial Consultant or a Consulting Engineer, not a regular employee of the Issuer, reciting the opinion based upon necessary investigations that the Net Revenues of the System for the preceding Fiscal Year (with adjustments as hereinafter provided) were equal to at least 1.10 times the maximum amount that will be required in any Fiscal Year prior to the longest maturity of any of the then outstanding Notes or Parity Obligations for both principal of and interest on all Notes or Parity Obligations then outstanding which are payable from the net earnings of the System and the Additional Bonds then proposed to be issued.

For the purpose of determining the Net Revenues of the System for the preceding Fiscal Year as aforesaid, the amount of the gross revenues for such year may be adjusted by an Independent Auditor or independent financial consultant or a Consulting Engineer, not a regular employee of the Issuer, so as to reflect any changes in the amount of such revenues which would have resulted had any revision of the schedule of rates or charges imposed at or prior to the time of the issuance of any such Additional Bonds been in effect during all of such preceding Fiscal Year.

(ii) the Additional Bonds must be payable as to principal and as to interest on the same month and day as the Notes herein authorized.

(iii) for the purposes of this Section, principal and interest falling due on the first day of a Fiscal Year shall be deemed a requirement of the immediately preceding Fiscal Year.

(iv) for the purposes of this Section, general obligation bonds or notes shall be refunded only upon a finding of necessity by the Governing Body and only to the extent the general obligation bonds or notes were issued or the proceeds thereof were expended for the System.

(v) for purposes of this Section, "preceding Fiscal Year" shall be the most recently completed Fiscal Year for which audited financial statements prepared by a certified public accountant are issued and available, but in no event a Fiscal Year which ended more than eighteen months prior to the date of issuance of the Additional Bonds.

Section 23. Disposition of Proceeds; Arbitrage Not Permitted. The Issuer reasonably expects and covenants that no use will be made of the proceeds from the issuance and sale of the Notes issued hereunder which will cause any of the Notes to be classified as arbitrage bonds within the meaning of Section 148(a) and (b) of the Internal Revenue Code of the United States, and that throughout the term of said Notes it will comply with the requirements of said statute and regulations issued thereunder.

To the best knowledge and belief of the Issuer, there are no facts or circumstances that would materially change the foregoing statements or the conclusion that it is not expected that the proceeds of the Notes will be used in a manner that would cause the Notes to be arbitrage bonds. Without limiting the generality of the foregoing, the Issuer hereby agrees to comply with the provisions of the Tax Exemption Certificate and the provisions of the Tax Exemption Certificate are hereby incorporated by reference as part

of this Resolution. The Finance Director is hereby directed to make and insert all calculations and determinations necessary to complete the Tax Exemption Certificate in all respects and to execute and deliver the Tax Exemption Certificate at issuance of the Notes to certify as to the reasonable expectations and covenants of the Issuer at that date.

The Issuer covenants that it will treat as Yield Restricted any proceeds of the Notes remaining unexpended after three years from the issuance and any other funds required by the Tax Exemption Certificate to be so treated. If any investments are held with respect to the Notes and Parity Obligations, the Issuer shall treat the same for the purpose of restricted yield as held in proportion to the original principal amounts of each issue.

The Issuer covenants that it will exceed any investment yield restriction provided in this Resolution only in the event that it shall first obtain an opinion of recognized bond counsel that the proposed investment action will not cause the Notes to be classified as arbitrage bonds under Section 148(a) and (b) the Internal Revenue Code or regulations issued thereunder.

The Issuer covenants that it will proceed with due diligence to spend the proceeds of the Notes for the purpose set forth in this Resolution. The Issuer further covenants that it will make no change in the use of the proceeds available for the construction of facilities or change in the use of any portion of the facilities constructed therefrom by persons other than the Issuer or the general public unless it has obtained an opinion of bond counsel or a revenue ruling that the proposed project or use will not be of such character as to cause interest on any of the Notes not to be exempt from federal income taxes in the hands of holders other than substantial users of the project, under the provisions of Section 142(a) of the Internal Revenue Code of the United States, related statutes and regulations.

Section 24. Additional Covenants, Representations and Warranties of the Issuer. The Issuer certifies and covenants with the purchasers and holders of the Notes from time to time outstanding that the Issuer through its officers, (a) will make such further specific covenants, representations and assurances as may be necessary or advisable; (b) comply with all representations, covenants and assurances contained in the Tax Exemption Certificate, which Tax Exemption Certificate shall constitute a part of the contract between the Issuer and the owners of the Notes; (c) consult with bond counsel (as defined in the Tax Exemption Certificate); (d) pay to the United States, as necessary, such sums of money representing required rebates of excess arbitrage profits relating to the Notes; (e) file such forms, statements and supporting documents as may be required and in a timely manner; and (f) if deemed necessary or advisable by its officers, to employ and pay fiscal agents, financial advisors, attorneys and other persons to assist the Issuer in such compliance.



Section 25. Amendment of Resolution to Maintain Tax Exemption. This Resolution may be amended without the consent of any owner of the Notes if, in the opinion of bond counsel, such amendment is necessary to maintain tax exemption with respect to the Notes under applicable Federal law or regulations.

Section 26. Qualified Tax-Exempt Obligations. For the sole purpose of qualifying the Notes as "Qualified Tax-Exempt Obligations" pursuant to Section 265(b) of the Internal Revenue Code of the United States, as amended, the Issuer designates the Notes as qualified tax-exempt obligations and represents that the reasonably anticipated amount of tax-exempt governmental obligations which will be issued during the current calendar year will not exceed Thirty (30) Million Dollars.

Section 27. Discharge and Satisfaction of Notes. The covenants, liens and pledges entered into, created or imposed pursuant to this Resolution may be fully discharged and satisfied with respect to the Notes and Parity Obligations, or any of them, in any one or more of the following ways:

(a) By paying the Notes or Parity Obligations when the same shall become due and payable; and

(b) By depositing in trust with the Finance Director, or with a corporate trustee designated by the Governing Body, for the payment of said obligations and irrevocably appropriated exclusively to that purpose an amount in cash or direct obligations of the United States the maturities and income of which shall be sufficient to retire at maturity, or by redemption prior to maturity on a designated date upon which said obligations may be redeemed, all of such obligations outstanding at the time, together with the interest thereon to maturity or to the designated redemption date, premiums thereon, if any that may be payable on the redemption of the same; provided that proper notice of redemption of all such obligations to be redeemed shall have been previously published or provisions shall have been made for such publication.

Upon such payment or deposit of money or securities, or both, in the amount and manner provided by this Section, all liability of the Issuer with respect to the Notes or Obligations shall cease, determine and be completely discharged, and the holders thereof shall be entitled only to payment out of the money or securities so deposited.

Section 28. Resolution a Contract. The provisions of this Resolution shall constitute a contract between the Issuer and the holder or holders of the Notes and Parity Obligations, and after the issuance of any of the Notes no change, variation or alteration of any kind in the provisions of this Resolution shall be made in any manner, except as

provided in the next succeeding Section, until such time as all of the Notes and Parity Obligations, and interest due thereon, shall have been satisfied and discharged as provided in this Resolution.

Section 29. Amendment of Resolution Without Consent. The Issuer may, without the consent of or notice to any of the holders of the Notes and Parity Obligations, amend or supplement this Resolution for any one or more of the following purposes:

(a) to cure any ambiguity, defect, omission or inconsistent provision in this Resolution or in the Notes or Parity Obligations; or to comply with any applicable provision of law or regulation of federal or state agencies; provided, however, that such action shall not materially adversely affect the interests of the holders of the Notes or Parity Obligations;

(b) to change the terms or provisions of this Resolution to the extent necessary to prevent the interest on the Notes or Parity Obligations from being includable within the gross income of the holders thereof for federal income tax purposes;

(c) to grant to or confer upon the holders of the Notes or Parity Obligations any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the holders of the Notes;

(d) to add to the covenants and agreements of the Issuer contained in this Resolution other covenants and agreements of, or conditions or restrictions upon, the Issuer or to surrender or eliminate any right or power reserved to or conferred upon the Issuer in this Resolution; or

(e) to subject to the lien and pledge of this Resolution additional pledged revenues as may be permitted by law.

Section 30. Amendment of Resolution Requiring Consent. This Resolution may be amended from time to time if such amendment shall have been consented to by holders of not less than two-thirds in principal amount of the Notes and Parity Obligations at any time outstanding (not including in any case any Notes which may then be held or owned by or for the account of the Issuer, but including such Refunding Obligations as may have been issued for the purpose of refunding any of such Notes if such Refunding Obligations shall not then be owned by the Issuer); but this Resolution may not be so amended in such manner as to:

- (a) Make any change in the maturity or interest rate of the Notes, or modify the terms of payment of principal of or interest on the Notes or any of them or impose any conditions with respect to such payment;
- (b) Materially affect the rights of the holders of less than all of the Notes and Parity Obligations then outstanding; and
- (c) Reduce the percentage of the principal amount of Notes, the consent of the holders of which is required to effect a further amendment.

Whenever the Issuer shall propose to amend this Resolution under the provisions of this Section, it shall cause notice of the proposed amendment to be filed with the Original Purchaser and to be mailed by certified mail to each registered owner of any Note as shown by the records of the Registrar. Such notice shall set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory Resolution is on file in the office of the Clerk.

Whenever at any time within one year from the date of the mailing of said notice there shall be filed with the Clerk an instrument or instruments executed by the holders of at least two-thirds in aggregate principal amount of the Notes then outstanding as in this Section defined, which instrument or instruments shall refer to the proposed amendatory Resolution described in said notice and shall specifically consent to and approve the adoption thereof, thereupon, but not otherwise, the Governing Body of the Issuer may adopt such amendatory Resolution and such Resolution shall become effective and binding upon the holders of all of the Notes and Parity Obligations.

Any consent given by the holder of a Note pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the instrument evidencing such consent and shall be conclusive and binding upon all future holders of the same Note during such period. Such consent may be revoked at any time after six months from the date of such instrument by the holder who gave such consent or by a successor in title by filing notice of such revocation with the Clerk.

The fact and date of the execution of any instrument under the provisions of this Section may be proved by the certificate of any officer in any jurisdiction who by the laws thereof is authorized to take acknowledgments of deeds within such jurisdiction that the person signing such instrument acknowledged before him the execution thereof, or may be proved by an affidavit of a witness to such execution sworn to before such officer.

The amount and numbers of the Notes held by any person executing such instrument and the date of his holding the same may be proved by an affidavit by such person or by a certificate executed by an officer of a bank or trust company showing that on the date therein mentioned such person had on deposit with such bank or trust company the Notes described in such certificate.

Notwithstanding anything in this Section to the contrary, the holder or holders of 100% of the Notes and Parity Obligations may consent to any amendment of this Resolution, or waive any notices required hereunder, on such terms and under such conditions as said holders shall determine to be appropriate.

Section 31. Severability. If any section, paragraph, or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions.

Section 32. Repeal of Conflicting Ordinances or Resolutions and Effective Date. All other Ordinances, Resolutions and orders, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed; and this Resolution shall be in effect from and after its adoption.

Section 33. Rule of Construction. This Resolution and the terms and conditions of the Notes authorized hereby shall be construed whenever possible so as not to conflict with the terms and conditions of the Loan and Disbursement Agreements. In the event such construction is not possible, or in the event of any conflict or inconsistency between the terms hereof and those of the Loan and Disbursement Agreements, the terms of the Loan and Disbursement Agreements shall prevail and be given effect to the extent necessary to resolve any such conflict or inconsistency.

PASSED AND APPROVED this 25<sup>th</sup> day of January, 2010.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Clerk

# CERTIFICATE

STATE OF IOWA )  
 ) SS  
COUNTY OF POTTAWATTAMIE )

I, the undersigned City Clerk of Council Bluffs, Iowa, do hereby certify that attached is a true and complete copy of the portion of the corporate records of the Municipality showing proceedings of the Council, and the same is a true and complete copy of the action taken by the Council with respect to the matter at the meeting held on the date indicated in the attachment, which proceedings remain in full force and effect, and have not been amended or rescinded in any way; that meeting and all action thereat was duly and publicly held in accordance with a notice of meeting and tentative agenda, a copy of which was timely served on each member of the Council and posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the Council (a copy of the face sheet of the agenda being attached hereto) pursuant to the local rules of the Council and the provisions of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four hours prior to the commencement of the meeting as required by law and with members of the public present in attendance; I further certify that the individuals named therein were on the date thereof duly and lawfully possessed of their respective city offices as indicated therein, that no Council vacancy existed except as may be stated in the proceedings, and that no controversy or litigation is pending, prayed or threatened involving the incorporation, organization, existence or boundaries of the City or the right of the individuals named therein as officers to their respective positions.

WITNESS my hand and the seal of the Municipality hereto affixed this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

City Clerk, Council Bluffs, Iowa

SEAL

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